

STATE OF NEW HAMPSHIRE

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April 9, 2018

Ms. Debra A. Howland  
Executive Director  
New Hampshire Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, New Hampshire 03301

Re: Docket No. DE 17-160  
Public Service Company of New Hampshire  
Motion for Reconsideration

Dear Ms. Howland:

Please treat this letter as the response of the Office of the Consumer Advocate (OCA) to the pending motion of Public Service Company of New Hampshire (PSNH) for rehearing of Order No. 26,108, entered in the above-referenced docket on March 2, 2018.

As you know, this docket concerns the request of PSNH for recovery of certain consulting costs incurred by the Staff of the Commission as well as the OCA in connection with the Commission's grid modernization and net metering proceedings. With respect to the OCA, the costs were incurred pursuant to a contract approved by Governor & Council as well as the Fiscal Committee of the General Court. *See* RSA 363:28, III (providing that in such circumstances, the Commission "shall charge a special assessment for such amounts against any utility participating in such proceedings and shall provide for the timely recovery of such amounts for the affected utility"). The OCA did not oppose the PSNH petition, which the Commission approved after hearing via Order No. 26,091 (December 27, 2017).

The ensuing dispute concerns the amount to be recovered. Order No. 26,108 reduced the recoverable amount from \$430,569 to \$229,665 in light of an audit conducted by Staff of the expenses in question. Rough math would suggest this wipes out about half of the \$0.00017 per kilowatt-hour distribution rate increase referenced on the first page of the initial order. In quest of approximately eight thousandths of a cent per kilowatt-hour, PSNH advances several billion-dollar arguments: Due Process, Equal Protection, and the Takings Clause of the Fifth Amendment to the U.S. Constitution (which precludes confiscatory rates).

For the reasons ably stated by Staff in its Objection to the PSNH motion, which the OCA hereby joins, the arguments advanced by PSNH are devoid of merit. This is not a constitutional crisis.

Rather, it is an example of a utility seeking to ignore clear and well-established accounting rules by including in a 2017 deferral – the basis of the requested rate recovery -- expenses that were actually incurred in 2016.

The OCA is submitting this letter in an effort to make clear that it is not the intention of our office ever to make utility shareholders responsible for consulting costs incurred by our office. We deliver value exclusively to residential customers and, therefore, it is appropriate for customers to pay these costs either via regular assessment (RSA 363-A) (routinely included in utility revenue requirements) or via special assessment (RSA 363:28, III). We believe the Legislature to have enshrined this principle in the two referenced statutes. However, these enactments – including the Legislature’s use of the phrase “shall provide for. . . timely recovery” in the latter – do not mean utilities are free to disregard the accounting rules that apply to rate mechanisms.

Please feel free to contact me if there are any questions or concerns about the foregoing.

Sincerely,



D. Maurice Kreis  
Consumer Advocate

cc: Service List