

DE 01-023

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Complaint of Ann and Tim Guillemette

Order Following Pre-Hearing Conference and
Denying Motion to Dismiss

O R D E R N O. 23,734

June 28, 2001

APPEARANCES: James T. Rodier, Esq. for Ann and Tim Guillemette; Christopher J. Allwarden, Esq. for Public Service Company of New Hampshire; and Marcia A.B. Thunberg, Esq. for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY AND POSITIONS OF THE PARTIES

This case is an outgrowth of a consumer complaint that was first brought to the attention of the New Hampshire Public Utilities Commission (Commission) in 1997.

Complainants Ann and Tim Guillemette are residents of Bedford and customers of Public Service Company of New Hampshire (PSNH). They allege that voltage fluctuations in the service provided to their residence by PSNH have resulted in extensive damage to their personal property.

The Staff of the Commission conducted an informal investigation. On July 11, 2000, Commission Chief Engineer Michael D. Cannata advised the complainants of his determination that the problems at their home were not the result of "improper system conditions or operations on the part of PSNH." In light of further communications with the

complainants, noting their disagreement with this conclusion, Mr. Cannata requested that the Commission open this docket and conduct a formal investigation pursuant to RSA 365:1. PSNH filed a response on January 5, 2001, denying "the contention that the quality of electric service provided by PSNH to the Guillemette residence is deficient."

The Commission issued an Order of Notice on March 22, 2001, scheduling a Pre-Hearing Conference for April 18, 2001. However, due to a deficiency in the service of the Order of Notice, the Pre-Hearing Conference did not take place as scheduled.

On April 24, 2001, at the suggestion of Staff, the Complainants submitted a written preliminary statement of their position. In their letter, the complainants stated that (1) they have suffered serious damage and economic loss at their residence as a result of PSNH service, (2) they are in a position to offer expert testimony that the damage in question has not been caused by any wiring problems on the customer side of their PSNH meter, (3) PSNH knew as early as December 31, 1996 about a poor connection at the complainants' meter, which was a "principal cause of voltage surges and sags experienced by the Complainants," and (4) the complainants intend to challenge the applicable Commission rules pertaining

to service quality "to the extent they are relied upon by PSNH as a defense."

Staff responded to this filing on April 25, 2001, expressing the concern that the complaints are seeking to pursue tort claims against PSNH over which the Commission lacks jurisdiction. According to Staff, the Commission's enabling statutes do not confer the authority to make the complainants whole via an award of civil damages - a remedy which, in Staff's view, the complainants are seeking here. Finally, Staff took the position that a challenge to any applicable Commission rules is beyond the scope of this proceeding, contending that PSNH could indeed defend itself here by demonstrating that it complied with the applicable rules.

On May 3, 2001, PSNH filed a motion to dismiss the proceeding. In its motion, PSNH (1) characterized this proceeding as "fundamentally a civil claim for damages to property" properly cognizable in court and over which the Commission should decline to assert jurisdiction, (2) alleged that there has been "no petition or other proper pleading filed by complainants in this case which clearly specifies what act or omission by PSNH in violation of any law, rule, regulation or order is the basis of [the Guillemettes']

complaint, as required by RSA 365:1," and (3) contended that, because this is not a rulemaking proceeding, the Commission lacks the jurisdiction in this docket to hear the complainants' challenge to any of the Commission's rules.

The Commission issued a revised Order of Notice on April 27, 2001, scheduling a Pre-Hearing Conference for May 8, 2001. The Pre-Hearing Conference took place as scheduled. The focus of the Pre-Hearing Conference was the issues raised in the various filings described above relative to the Commission's jurisdiction and authority. The Commission encouraged PSNH and the complainants to conduct settlement discussions, and requested that the complainants file a "bill of particulars" so as to permit PSNH and the Commission to have a more precise idea as to the specific allegations they complainants were making against the Company. Following the Pre-Hearing Conference, the parties and Staff met for a technical session. At the technical session, there was agreement to await resolution of the pending dismissal motion prior to submitting a proposed procedural schedule.

The complainants filed an objection to PSNH's dismissal motion on May 17, 2001. In their objection, the complainants contended that PSNH's request for dismissal ignores the express provisions of the Commission's Order of

Notice, which noted that the docket is proceeding as an investigation pursuant to RSA 365:1. The complainants further took the position that PSNH has violated RSA 374:1 (setting forth utilities' duty to "furnish such service and facilities as shall be reasonably safe and adequate and in all other respects just and reasonable") and, therefore, is guilty of a felony pursuant to RSA 365:41, subjecting the company to a fine of up to \$25,000.

In their objection to the dismissal motion, the complainants stated that they are seeking damages not through a tort claim but pursuant to the terms and conditions of PSNH's delivery service tariff. The complainants invoked case law noting that the Commission has plenary authority over utility tariffs, which do not simply state the terms of the contractual relationship between a utility and its customers but also have the force and effect of law. According to the complainants, their request for damages "is based upon the terms of PSNH's tariff and its quasi-legislative binding effect on PSNH, not an express delegation of authority by the legislature to the PUC."

The complainants further concede that, under the Administrative Procedure Act, the Commission's rules are "prima facie evidence of the proper interpretation of the

matter that they refer to." RSA 541-A:22, II (subject to exception when Joint Legislative Committee on Administrative Rules denies approval of rule). But, according to the complainants, "the merest inquiry by the Commission would quickly establish as a matter of common sense that Rule Puc 304.02, as interpreted by PSNH, is totally at odds with RSA 374:1." According to the complainants, nothing in the applicable law precludes the Commission from conducting such an inquiry here.

PSNH submitted a reply on May 18, 2001. In it, PSNH took the position that the Commission's Order of Notice is purely a procedural device for instituting the docket and does not confer any jurisdiction on the Commission that it would not otherwise have pursuant to statute. PSNH further characterized as a "surprising revelation" the position asserted in the complainants' objection that they are seeking fines in accordance with RSA 365:41 upon a determination that the company is guilty of a felony. According to PSNH, the Superior Court and not the Commission is the appropriate forum for adjudicating felony proceedings under New Hampshire law. PSNH further contended that it is entitled to trial by jury in such a proceeding, as well as every other constitutional and statutory protection accorded a criminal defendant. PSNH

additionally asserted that prosecution of felony requires indictment by grand jury and is also subject to the authority of the Attorney General or relevant County Attorney to determine whether to proceed.

Finally, PSNH in its reply argued that there is no merit to the complainants' assertion that the company's tariff provides a basis for the Commission to entertain their bid for economic damages. According to PSNH, the tariff does indeed carry the force and effect of law - but, in this instance, simply with the result that the tariff establishes the causation standard that the complainants would have to meet in any tort action brought by the complainants in court.

Although the Office of Consumer Advocate (OCA) had not previously entered an appearance on behalf of residential ratepayers, OCA filed a response to PSNH's reply memorandum on May 29, 2001. OCA objected to PSNH's contention that the Commission is without authority to impose a monetary penalty against the company pursuant to RSA 365:41. OCA relied upon *Appeal of Conservation Law Foundation of New England, Inc.*, 127 N.H. 606 (1986). Specifically, OCA invoked the New Hampshire Supreme Court's reference to a "'constitutional calculus' in which the interests of investors, like the interests of customers, are variables." *Id.* at 639. The

Court was referring to the constitutional requirements of ratemaking. According to OCA, the same "constitutional calculus" should be applied to the Commission's imposition of fines and penalties, with the result that such sanctions be deemed within the Commission's lawful powers. According to OCA, "[t]here is no logic to the view that the Commission somehow has the authority to make decisions that can effect hundreds of millions of dollars['] worth of stockholder value, but is not able to impose penalties because of due process."

The Commission Staff has not taken a position on PSNH's dismissal motion.

On June 4, 2001, the complainants filed a document entitled "Statement of Ann and Tim Guillemette" that was intended to be responsive to the Commission's request at the Pre-Hearing Conference that the complainants supply a bill of particulars. The June 4 filing states that (1) the complainants suffered "extensive loss and damage caused by electricity" for which they have incurred repair and replacement costs of at least \$26,000, plus compensation for "continuing emotional distress" as well as "foreseeable and consequential damage," (2) the complainants intend to submit "compelling evidence" that the damage in question was caused by electricity, such evidence consisting of "testimony from

appliance repairmen as well as authenticated repair records," (3) the complainants "will offer expert testimony from at least one licensed electrician to support their contention that the damage has not been caused by wiring problems on the Guillemettes' side of the meter," plus an internal PSNH document from 1996 indicating that a PSNH employee received a report from an unspecified "electrician" that "one of the phases was only partially installed at meter socket, indicating that PSNH knew as early as 1996 "that a poor connection at Complainants' meter existed."

II. COMMISSION ANALYSIS

It has long been established as a matter of New Hampshire law that the Commission "is a creation of the legislature and as such is endowed with only the powers and authority which are expressly granted or fairly implied by statute." *Appeal of Public Service Co. of New Hampshire*, 122 N.H. 1062, 1066 (1982) (citing *Petition of Boston & Maine R.R.*, 82 N.H. 116, 116, 129 A. 880, 880 (1925)). The Commission's "generalized powers of supervision" over utilities is not a source of such authority. *Id.*

There is no question that the Commission has the statutory authority to conduct the formal investigation requested by the complainants. RSA 365:1 expressly permits

any person to "make complaint to the commission by petition setting forth in writing any thing or act claimed to have been done or to have been omitted by any public utility in violation of any provision of law, or of the terms and conditions of its franchises or charter, or of any order of the commission." RSA 365:2 provides for the forwarding of such complaint to the subject utility with a demand for an answer, and RSA 365:3 relieves the Commission of any obligation to act where the utility makes "reparations for any injury alleged and . . . cease[s] to commit or to permit the violation of law, franchise or order charged in the complaint." Finally, pursuant to RSA 365:4,

[i]f the charges are not satisfied as provided in RSA 365:3, and it shall appear to the commission that there are reasonable grounds therefor, it *shall* investigate the same in such manner and by such means as it shall deem proper, and, after notice and hearing, take such action within its powers as the facts justify.

(Emphasis added.)

We have considered the record adduced at the prehearing conference and have reviewed the papers submitted by the parties and Staff, including the detailed response provided by PSNH, and, while we take note of Staff's view upon informal investigation that the allegations of the complainants lack merit, we nevertheless find that sufficient

questions remain unanswered to provide reasonable grounds within the meaning of RSA 365:4 to conduct a full and formal investigation, along the lines set forth below. Accordingly, we must deny PSNH's motion to dismiss the proceeding.

However, we share with the parties and Staff a view that it will be helpful and efficient if we confront at the outset the nature of the relief sought by the complainants. Although the Commission enjoys full authority to investigate matters related to New Hampshire utilities, Chapter 365, which governs complaints to, and proceedings before, the Commission, provides the Commission with less than plenary authority to redress customer complaints.

The Commission may order a utility to "make due reparation" to a customer, with such reparation covering "only payments made within 2 years before the date of filing the petition for reparation" in cases where a complaint has been made "covering any rate, fare, charge or price demanded and collected" by a utility. RSA 365:29. Assuming that such a remedy would be appropriate here, *see Granite State Transmission Co. v. State*, 105 N.H. 454, 456-57 (1964) (noting Commission's authority under RSA 365:29 "to prevent unreasonable prejudice or disadvantage to customers"), it is far more limited in scope than the damages and penalties the

complainants apparently seek.

The only other provision of Chapter 369 that speaks to a monetary remedy against a utility is RSA 365:41, which provides that

[a]ny public utility which shall violate any provisions of this title, or fails, omits or neglects to obey, observe or comply with any order, direction or requirement of the commission, shall be guilty of a felony and, shall be subject to a civil penalty, as determined by the commission, not to exceed \$25,000. No portion of any fine, nor any costs associated with an administrative or court proceeding which results in a fine pursuant to this section, shall be considered by the commission in fixing any temporary, permanent, or emergency rates or charges of such utility.¹

RSA 365:41 penalties and any other forfeiture incurred under the provisions of Chapter 365, "shall be recovered in an action brought by the attorney general in the name of the state, and when recovered shall be paid to the state treasurer." In other words, such recovered sums are not available to compensate individual wronged customers.

Given these provisions, and the general principle noted above that the Commission has only the authority expressly conferred by statute or fairly implied from such an

¹ A separate provision makes officers or agents of utilities potentially liable for a civil penalty of up to \$10,000 when they willfully violate, or procure, aid or abet the violation of, commission orders or enabling statutes. See RSA 365:42.

enactment, we conclude that we lack the authority to award civil damages to a utility customer as a result of service provided by a utility that is of deficient quality. The Legislature appears to have made a policy choice, between vesting the Commission with the authority to make such aggrieved customers whole - a function traditionally reserved to courts - and giving the Commission only a mechanism for motivating utilities via administrative sanctions to comply with the relevant requirements.

This hardly reduces investigations under RSA 365:4 into empty exercises. Authority to redress customer complaints by ordering utilities to take appropriate action is both explicitly conferred by Chapter 365 and may be fairly implied by its provisions as well as other of the Commission's enabling statutes. See, e.g., RSA 365:2 (noting that Commission may require "that the matters complained of be satisfied" at time complaint is forwarded to utility); RSA 365:4 (upon investigation, commission may "take such action within its powers as the facts justify"); RSA 365:23 (imposing upon utilities duty to "observe and obey every requirement" of commission orders); RSA 365:40 ("Every public utility and all officers and agents of the same shall obey, observe, and comply with every order made by the commission under authority of

this title so long as the same shall remain in force."); RSA 374:7 ("The Commission shall have power to investigate and ascertain . . . the methods employed by public utilities in manufacturing, transmitting or supplying . . . electricity for light, heat or power . . . and, after notice and hearing thereon, shall have power to order all reasonable and just improvements in service or methods."). Obviously, the Legislature would not have imposed upon utilities the duty to comply with Commission directives if it did not intend to confer upon the Commission the authority to direct utilities to take actions as a result of formal investigations. This has been long recognized. See, e.g., *State v. New Hampshire Gas & Electric Co.*, 86 N.H. 16, 29-30 (1932) (noting Commission's "plenary" authority to issue orders directly affecting service or rates).² We do not opine here on whether a determination that the Commission makes in a complaint case may also have a collateral estopped or res judicata effect.

² In order to enforce such directives, the Commission is empowered to "lay the facts before the attorney general, and to direct him immediately to begin an action in the name of the state praying for appropriate relief by mandamus, injunction or otherwise." RSA 374:41. Although the New Hampshire Supreme Court has suggested that, in exercising this authority, the Commission "acts in a supervisory or inquisitorial capacity, in which its function is not unlike that of a grand jury," *New Hampshire Gas & Electric Co.*, 86 N.H. at 33, the Court has never held that we lack the power to order utilities to enforce specific service quality standards.

Given these statutory directives, our conception of an RSA 365:4 investigation differs from the one described by the complainants in the various papers they have filed thus far in this proceeding. The complainants would apparently have us superintend something very much like a civil lawsuit, in which the contending parties generate competing evidence, a verdict is rendered and the wronged party is made whole. Neither the statutes governing the Commission, nor the Administrative Procedure Act, permit the Commission to provide such a remedy. The statutory scheme does permit other, more flexible, approaches when appropriate. See RSA 541-A:31 (describing requirements for adjudicative proceeding in contested cases). We regard RSA 365:4 proceedings, when triggered by consumer complaints that are unrelated to payments, as an opportunity to pinpoint and solve problems with service quality in a manner that promotes fidelity to the utilities' statutory obligation to provide "such service and facilities as shall be reasonably safe and adequate and in all other respects just and reasonable." RSA 374:1. In other words, an RSA 365:4 proceeding is simply a second and more formal phase, subject to the requirements of the Administrative Procedure Act, of the consumer dispute resolution process that begins whenever a ratepayer contacts

the Commission's Consumer Affairs Department with a complaint.

As the complainants note, a Commission-approved tariff of a New Hampshire utility does not simply define the contractual relationship between the utility and its customers but has "the force and effect of law." *Appeal of Pennichuck Water Works*, 120 N.H. 562, 566 (1980). In suggesting that this special character of tariffs somehow confers upon the Commission the authority to adjudicate a claim for civil damages that implicates the terms of the tariff, the complainants misapprehend the significance of the concept in question. In the *Pennichuck* case, the New Hampshire Supreme Court made the point in connection with its determination that when the Commission considers a proposed tariff it must adhere to the constitutional limitations on the exercise of legislative functions. *Id.* at 565-66. More generally, the notion that a tariff has the force and effect of law means that in disputes arising under a tariff certain defenses typically applicable to contract claims may not be invoked, see *Appeal of Vicon Recovery Systems, Inc.*, 130 N.H. 801, 805 (1988), all customers are presumed to be aware of the tariff's terms, see *Bellsouth Telecommunications, Inc. v. Kerrigan*, 55 F.Supp.2d 1314, 1318 (N.D.Fla. 1999), the tariff supercedes any other agreements made by a utility and a customer, see

id., and language in a tariff may limit a utility's liability to a customer from what it would otherwise be under generally applicable legal principles,³ see *Disk 'n' Data, Inc. v. AT&T Communications*, 616 N.E.2d 76, 77 (Mass. 1993). Even though our imprimatur confers upon a tariff the force and effect of law, we are no more empowered to adjudicate civil damages claims implicating the tariff than the Legislature would be the appropriate forum for adjudication of a civil damages claim that implicates a provision of the New Hampshire Revised Statutes.

On the question of whether the complainants may use this proceeding to vindicate their contention that our rule governing voltage variation, Puc 304.02, is, as complainants allege, "totally at odds with RSA 374:1," we agree with PSNH, subject to one caveat. Under the Administrative Procedure Act, duly promulgated rules are not simply "prima facie evidence of the proper interpretation of the matter that they refer to" but also "have the force of law unless amended or

³ As the complainants point out, PSNH's delivery service tariff contains certain language that speaks to the company's potential liability to customers for damages and we recently declined to permit PSNH to revise this provision. See Order No. 23,659 (March 22, 2001). This decision implicates the Commission's quasi-legislative function and has no bearing on the extent of our quasi-judicial authority to resolve disputes.

revised or unless a court of competent jurisdiction determines otherwise." RSA 541-A:23, II. The Commission's promulgation of the specific voltage variation standards set forth in Puc 304.02 constitutes the agency's considered judgment that compliance with such standards is consistent with the more general statutory prescription for safe and adequate service contained in RSA 374:1. Because this judgment has the force of law, PSNH was, and is, entitled to rely upon it. The case cited by the complainants, *Petition of Smith*, 139 N.H. 299 (1994), is simply an illustration of the principle enshrined in RSA 541-A:23, II, that a court of competent jurisdiction may declare a rule invalid because it is inconsistent with the statute it purports to implement. It does not suggest that the Commission may sanction a utility for conduct that is in compliance with a rule that has been duly promulgated by that same commission.

This is not to say, however, that we will refuse to entertain evidence proffered in an RSA 365:4 proceeding in an effort to demonstrate that a duly promulgated rule is inadequate to assure safe and reliable utility service. We do not rule out the possibility that the complainants are correct in their assertion that our rule governing voltage variation does not provide them with the protections to which they are

otherwise entitled by law. Were we to so determine, we are confident that we have the power to take appropriate action - either by ordering appropriate customer-specific or utility-specific action here, by exercising our emergency rulemaking authority, see RSA 541-A:18 (allowing for emergency rule promulgation in case of "imminent peril to the public health or safety"), or by instituting a formal rulemaking proceeding under RSA 541-A:3 and related provisions. Therefore, complainants should not hesitate to pursue their theory at hearing that Puc 404.02 provides them with insufficient protection and requires revision. They should bear in mind, however, that absent evidence that PSNH misinterpreted or misapplied the rule, we will not sanction the Company, which was entitled to rely upon these duly promulgated guidelines that have the force and effect of law until we determine otherwise.

We next take up PSNH's contention that the Commission is without jurisdiction to sanction a utility under RSA 365:41 in light of the constitutional and statutory safeguards that attend felony criminal proceedings, including the right to trial by jury, indictment by grand jury and the exercise of prosecutorial discretion. There is obviously no question that the Commission is without the jurisdiction to

adjudicate criminal cases of any kind. But there is a well-recognized distinction between criminal charges, which are the exclusive province of the criminal courts, and civil forfeitures, which do not require the same procedural safeguards and which can be imposed by administrative agencies in appropriate circumstances without application of the same stringent constitutional limitations. *See, e.g., Lopez v. Director, New Hampshire Div. of Motor Vehicles*, ___ N.H. ___, ___, 761 A.2d 448, 450 (2000) (concluding that, because administrative driver license suspension statute is not criminal, "criminal law does not apply to these proceedings"); *State v. Fitzgerald*, 137 N.H. 23, 26 (1993) (discussing distinction between civil penalties and criminal fines for double jeopardy purposes); *Peaslee v. Koenig*, 122 N.H. 828, 830 (1982) (noting that civil burden of proof may apply in case arising under statute with both civil and criminal provisions as long as only civil penalties are imposed); *see also Helvering v. Mitchell*, 303 U.S. 391, 400 (1938) (concluding that IRS could constitutionally impose fine and noting that "[f]orfeiture of goods or their value and the payment of fixed or variable sums of money are . . . sanctions which have been recognized as enforceable by civil proceedings since the original revenue law of 1789").

Our understanding of the criminal provisions of RSA 365:41 is identical to that of PSNH. If, hypothetically, a formal or informal investigation by the Commission revealed misconduct that, in our judgment, was of a sufficiently serious nature to warrant felony prosecution under RSA 365:41, the only avenue of recourse would be to make the relevant facts known to the Attorney General and request that he institute criminal proceedings in the appropriate court. However, PSNH is incorrect in its suggestion that we lack additional and separate authority under RSA 365:41 to impose a civil forfeiture.⁴ We express no view as to whether such a result would be appropriate in this case, concluding only that nothing about RSA 365:41 or the complainants' invocation of it warrants dismissal of the proceeding on jurisdictional grounds.⁵

Next we take up PSNH's contention that we should dismiss the proceeding because the complainants have failed to provide a petition or other proper pleading setting forth what

⁴ As already noted, although we have the authority to impose such a penalty, the Attorney General has the obligation of recovering the sum from the subject utility in an appropriate civil action. See RSA 365:43.

⁵ Given this determination, it is not necessary for us to consider OCA's position with regard to the potential applicability of the "constitutional calculus" described in the *Conservation Law Foundation* case.

acts or omissions by PSNH form the basis of their complaint. We agree that RSA 365:1 contemplates that the submission of such a writing will ordinarily comprise the triggering event of a formal investigation under RSA 365:4. In this instance, Staff initiated the proceeding and, by letter to PSNH, established a deadline for the company to file a written response pursuant to RSA 365:2. PSNH duly made such a filing, without raising any issues at that time as to the manner in which the formal investigation was instituted or the lack of a formal written petition from the complainants. It is now too late to impose such a procedural default on the complainants. In any event, we find that the complainants' June 4 filing sufficiently sets forth a complaint within the parameters of what is contemplated by RSA 365:1.

Finally, we deem it appropriate to advise the parties as to how we intend to conduct the remainder of this proceeding. First, the complainants are to advise the Commission in writing, within ten days of entry of this Order, whether they intend to continue to pursue their complaint in light of our ruling herein on the scope of remedies available to them.

Second, the prehearing conference record and the papers submitted thus far make two things clear: (1) the

complainants allege they have suffered recurring voltage-related problems at their residence that have caused them significant property damage, a situation that PSNH does not deny and that common sense suggests should not be allowed to persist, and (2) the complainants have never permitted PSNH to inspect the wiring in their home, on the customer side of the meter, to test PSNH's hypothesis that the problems experienced by the complainants are the result of that wiring and not the service provided by the company. In our judgment, a full and thorough investigation of this matter requires the inspection by a competent and objective electrical engineer of the complainants' premises wiring.

Therefore, we intend to engage the services of an independent engineering or licensed electrician consultant to perform such an inspection and provide a report to the Commission, with copies provided to the complainant and PSNH. We will assess the cost of such inspection to PSNH. See RSA 365:37, II. We will also allow PSNH to observe the inspection and comment on the report. The complainants are required to advise the Commission in writing, within ten days of the entry of this Order, as to whether they will permit such an inspection. Should they fail to grant such permission, we will dismiss the proceeding with prejudice and conclude our

investigation without any further action.

In addition, in order to help determine whether any alleged voltage surge or sag continues to exist, we will require PSNH to attach a voltage recording device to the complainant's meter for a continuous period of two months.

Based upon the foregoing, it is hereby

ORDERED, that the motion to dismiss filed by Public Service Company of New Hampshire is DENIED; and it is

FURTHER ORDERED, that the complainants shall advise the Commission in writing within ten days of the entry of this Order as to whether: 1) they intend to continue to pursue their complaint; and 2) they will permit inspection of their premises wiring by an independent inspector appointed by the Commission and accompanied by an observer from PSNH, as set forth above; and it is

FURTHER ORDERED, that, assuming complainants permit such inspection, the Executive Director, in consultation with the Chief Engineer of the Commission, appoint such independent inspector and provide that the costs of such appointment be assessed to PSNH; and it is

FURTHER ORDERED, that PSNH attach a voltage recording device to the complainant's meter for a continuous period of two months.

By order of the Public Utilities Commission of New
Hampshire this twenty-eighth day of June, 2001.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary