

THE STATE OF NEW HAMPSHIRE



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January 14, 2010

Air Resources Council
Department of Environmental Services
State of New Hampshire
P. O. Box 95
Concord, NH 03302-0095

Re: Docket No. 09-10-ARC; 09-11-ARC

Dear Council Members:

On December 29, 2009, I received a copy of N.H. Sierra Club's objection to PSNH's motion to dismiss the Sierra Club from the proceeding for lack of standing (Objection).

I am a staff attorney for the Public Utilities Commission (Commission). I am writing this letter to correct Arthur Cunningham's inaccurate characterization of a meeting that took place here on November 16, 2009. *See* Objection, footnote 2 (page 3).

Every year on May 1, Public Service Company of New Hampshire (PSNH) makes a filing with the Commission for the reconciliation of the prior year's energy service costs and stranded cost recovery charges. The docket number for the reconciliation of the 2008 calendar year is DE 09-091. At the beginning of the docket, the Commission considers motions to intervene and establishes a procedural schedule for the proceeding. The Sierra Club and Mr. Cunningham did not file motions to intervene and were not made parties to the docket.

At the PUC, any person, whether or not they are a party, may attend a technical session. Technical sessions are generally held to assist parties in understanding testimony and other evidence in a pending docket. Technical sessions may also involve settlement discussions. Settlement discussions are confidential pursuant to Commission rule N.H. Code of Admin. R. Puc 203.20(a). In the event a settlement is discussed at a technical session, only parties to the docket may participate.

Because I anticipated that settlement might be discussed at the technical session, I consulted with Commission General Counsel, F. Anne Ross, regarding the possibility that a Sierra Club representative might attend the technical session. We agreed that I should

make it clear that such non-party representatives could attend the technical session, but would have to leave the room before we began discussing a settlement.

Mr. Cunningham and another person who said she was associated with Sierra Club, Karen Irwin, attended the November 16, 2009 for the technical session. As the public and Staff decided to begin settlement discussions, Mr. Cunningham and Ms. Irwin would need to leave so that the parties could discuss a settlement. Mr. Cunningham said: "I strenuously object" but he left the room.

The parties did reach a settlement which was heard by the Commission on November 23, 2009. Mr. Cunningham attended the hearing and was allowed to make a closing statement although he had not intervened in the docket.

Mr. Cunningham's statement at footnote 2 that "he was ordered from the hearing room by Suzanne G. Amidon, staff attorney, at the behest of PSNH" is misleading. Instead, Mr. Cunningham was asked to leave, consistent with Commission rules and practice in order to protect the confidential nature of settlement discussions. Perhaps, Mr. Cunningham was not aware of Puc 203.20 and Commission practice, but his exclusion from settlement discussions was consistent with both. I trust this clarifies any misunderstanding which may have resulted.

Sincerely,

A handwritten signature in blue ink, appearing to read "Suzanne G. Amidon", with a large, stylized loop at the end.

Suzanne G. Amidon
Staff Attorney

cc. F. Anne Ross, General Counsel
Docket No. DE 09-091