

**STATE OF NEW HAMPSHIRE
BEFORE THE PUBLIC UTILITIES COMMISSION**

Public Service Company of New Hampshire

2013 Default Energy Service Rate

Docket No. DE 12-292

**CONSERVATION LAW FOUNDATION’S AND RATEPAYERS’
MOTION FOR REHEARING OF ORDER No. 25,448**

Conservation Law Foundation (“CLF”), and the undersigned ratepayers purchasing energy service (the “PSNH Ratepayers”) from Public Service Company of New Hampshire (“PSNH”) hereby request rehearing of Order No. 25,448, issued December 28, 2012 (“the Order”), pursuant to RSA 541:3. PSNH Ratepayers are: Alexandra M. Dannis and James G. Dannis, William Hopwood, Janet Ward, George Chase, and Amy Matheson. Each of the foregoing individuals has authorized CLF to represent that he/she is joining in this Motion as an individual ratepayer.¹ Collectively, CLF and the PSNH Ratepayers are referred to herein as “Petitioners.” In support of this Motion, Petitioners state as follows:

1. The rights, privileges and immunities of each of the Petitioners are affected by the Order and/or the rates established by the Commission therein as set forth below.
2. A non-profit environmental membership organization, CLF’s mission is to protect New England’s environment for the benefit of all people by using the law, science and the market to create solutions that preserve our natural resources, build healthy communities, and sustain a vibrant economy. Consistent with its mission, CLF is dedicated to the protection and responsible use of resources affected by the generation, transmission and distribution of electric

¹ CLF prepared this Motion which is being filed on behalf of itself, and by each PSNH Ratepayer. CLF is *not* acting in the capacity of legal counsel for, nor otherwise representing the PSNH Ratepayers, and each is a separate party to the instant motion.

power, and to advancing solutions that strengthen New England’s – and New Hampshire’s – economic vitality. CLF represents the interests of its members in ensuring that environmental impacts resulting from electric utility operation in New Hampshire and the region are minimized, and in avoiding adverse economic impacts associated with continued use and reliance on uneconomic, environmentally unsustainable electricity generation such as coal-fired generation at PSNH’s Merrimack and Schiller Stations. In order to achieve its organizational objectives, CLF’s focus includes advocacy regarding the design and operation of the region’s energy markets, including those regulated by state Public Utility Commissions like the retail market in New Hampshire in which PSNH participates, and the wholesale electricity market in New England, as regulated by the Federal Energy Regulatory Commission. In this regard, CLF has been a voting member and participant in the New England Power Pool (“NEPOOL”) since 2004 because we believe that vibrant competitive energy markets facilitate competition and innovation which attenuates environmental impacts.

3. CLF has over 3,300 members, including 435 members residing in New Hampshire and more than 300 members who reside in PSNH’s service territory, many of whom are default energy service customers of PSNH, including but not limited to some of the PSNH Ratepayers joining this Motion. CLF joins in this Motion on behalf of itself and its members, whose rights and interests are directly affected by the 34% rate increase, constituting massive above market costs granted to PSNH by the Order in this proceeding.² CLF has regularly been granted intervention by the Commission in PSNH ratemaking proceedings including most

² In addition to its stand alone rate impacts, the impacts of Order No. 25,448 are also far broader causing more fundamental market and policy effects. Within days of issuing the Order, the Commission opened “an investigation pursuant to RSA 365:5 and RSA 374:4 to examine the circumstances of PSNH’s default service rates and the degree to which those circumstances affect the ability of PSNH to provide safe and reliable service at just and reasonable rates to its default service customers.” DE 13-020 Order of Notice (“OON”). In the OON, the Commission expressly connected “long- and short-term environmental, economic and energy price and supply impact on the State” within PSNH’s least cost planning to recent developments with PSNH’s default energy service rates.

recently DE 10-121 (Energy Service Rate Reconciliation) and DE 11-215 (Proposed Energy Service Rate). In addition, CLF was granted intervention in DE 10-160 (PSNH Customer Migration) and pending DE 10-261 (PSNH Least Cost Integrated Resource Plan) and DE 11-250 (Scrubber Cost Recovery).

4. PSNH Ratepayers, as ratepayers directly bearing the cost of the increased above-market rates charged by PSNH, experience a direct economic injury from the rate increase in the Order. *Appeal of Richards*, 134 N.H. 148 (1991).

5. Although the Petitioners are not parties in the instant proceeding, they are empowered by law to protect their respective rights. *See* RSA 541:3 (stating that in addition to any party to a proceeding before the commission, “any person directly affected thereby . . . may apply for a rehearing. . . .”); *Appeal of Richards* at 154 (“A party or any person directly affected by the PUC’s decision or order may apply for a rehearing with respect to ‘any matter determined in the action or proceeding, or covered or included in the order.’”) (emphasis added).

6. The Commission may grant rehearing when the motion states “good reason for the rehearing.” RSA 541:3. Good reason may be shown by identifying specific matters that were either “overlooked or mistakenly conceived in the original decision and thus invite[] a reconsideration upon the record upon which that decision rested.” *Lambert Const. Co. v. State*, 115 N.H. 516, 519 (1975) (citations omitted).

7. This Motion arises out of PSNH’s request for approval of its proposed default energy service rate for 2013. PSNH initially requested an 8.97 cents/kwh default energy service rate on September 28, 2012, but increased the requested rate to 9.54 cents/kwh on December 12, 2012. The requested 9.54 cents/kwh rate, which the Commission approved in the Order, represents a 34% increase over the 2012 default energy service rate of 7.11 cents/kwh.

8. CLF submitted comments to the Commission in this proceeding on December 24, 2012 (“Comment Letter”) attached hereto as Exhibit 1 and which, in order to avoid duplication, we hereby incorporate by reference. The Comment Letter was filed in response to information provided by PSNH in the affidavit of Terrance J. Large (“PSNH Affidavit” attached hereto as Exhibit 2), which was filed on December 19, 2012 as part of PSNH’s response to a Commission record request in this proceeding. The Comment Letter asserted that the Commission lacked the statutory authority to approve the default energy service rate change sought in this proceeding because PSNH’s rate change request does not meet the requirements of RSA 378:40.

9. On December 28, 2012, the Commission approved PSNH’s default energy service rate increase of 34% in the Order. The Order noted that CLF had filed comments in response to the PSNH Affidavit on December 24. Order at 2. The Order did not otherwise acknowledge or discuss the content of CLF’s Comment Letter. Petitioners now move for rehearing of the Order in light of the legal arguments raised in the Comment Letter.

10. Specifically, Petitioners request that the Commission rehear the Order and disapprove PSNH’s 2013 default energy service rate increase on the basis of PSNH’s failure to comply with the requirements of RSA 378:38 & 378:40. As is further described in the Comment Letter, the Commission lacks the statutory authority to approve a rate change when the requesting utility has failed to file plans required under RSA 378:38, which includes least cost integrated resource plans (“LCIRP”) filed at least biennially. RSA 378:38, 378:40. PSNH’s most recent LCIRP was filed on September 20, 2010. See PSNH Affidavit. For these reasons, Petitioners request that the Commission rehear the Order in response to the legal arguments presented by CLF in the Comment Letter and above.

11. The Office of Consumer Advocate has authorized Petitioners to represent that it does not object to the relief requested herein.

WHEREFORE, Petitioners respectfully requests that the Commission:

- A. Grant this Motion for Rehearing of Order No. 25,448; and
- B. Grant such other relief as is just and equitable.

Respectfully submitted,

CONSERVATION LAW FOUNDATION

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Dated: January 28, 2013

PSNH RATEPAYERS

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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of January 2013, a copy of the foregoing Motion for Rehearing Order No. 25,448 was sent electronically or by First Class Mail to the service list.



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