

FairPointEnergy

FairPoint Energy uses its name under a license agreement with FairPoint Communications, Inc.

Martine Trinka
Counsel
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NHPUC 19SEP'13PM12:04

September 18, 2013

Via FedEx, Tracking No. 7967 1377 3065

New Hampshire Public Utilities Commission
Debra Howland, Executive Director
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

Re: DM 13-228 FairPoint Energy, LLC
Competitive Electric Power Supplier Application
Response to Deficiency Letter

Dear Ms. Howard:

This letter responds to the Commission's August 2, 2013 Commission deficiency letter to FairPoint Energy ("FPE") and serves two purposes: (A) to provide the missing items for the renewal application; and (B) to request a waiver of Section (a)(5)(a) of the Public Utilities Commission Rule 2003.03, *Reporting and Financial Requirements of Competitive Electric Power Suppliers*. Please find below this response and waiver request:

A. Response to Requested Information

- 1. Proof of financial surety with an expiration of not less than 5 years and 90 days after the renewal application is filed.**

By way of background, an amendment to the original Letter of Credit dated November 23, 2011 was filed with the Commission in Docket DM 11-175 on August 26, 2013 and August 29, 2013. The amended Letter of Credit extends the expiry date to September 30, 2014, and automatically renews in one year increments unless the beneficiary is notified in writing. For your convenience, please see Attachment 1, which includes these amendments previously filed with the Commission. Please see Part B of this response letter for the partial waiver FPE is requesting to meet this requirement.

2. The names, titles, business addresses, telephone numbers, and e-mail addresses of the applicant if an individual, or of the applicant's principal(s) if the applicant is anything other than an individual;

Please see Attachment 2.

3. The telephone number and e-mail address of the applicant's registered agent.

The address listed on the New Hampshire Secretary of State's website is correct. FairPoint Energy's registered agent in New Hampshire for service of process is:

National Registered Agents, Inc.
9 Capitol Street
Concord, NH 03301
requests@nrai.com
(800) 388-2123

B. Request for Waiver of Section of Rule

FPE requests that the Commission waive Section (a)(5)(a) (the "Section") of the Public Utilities Commission Rule 2003.03, *Reporting and Financial Requirements of Competitive Electric Power Suppliers*, (the "Rule"). FPE requests waiver of only the Section of the Rule regarding the expiration date for the surety. Specifically, the Rule requires that the surety have an expiration date not less than 5 years and 90 days after the date the applicant's renewal application is filed. FPE requests waiver of this Section to allow for a one year term that automatically renews each year. In all other regards, FPE's enclosed surety bond conforms to the requirements of the Rule.

FPE has used commercially reasonable efforts to obtain a surety bond that meets the Section requirements. We have consulted several times with our surety provider, Nick Elmasry, Senior Vice President, Director of Surety, at Aon Risk Solutions, and he has explained to us that due to financial market conditions, the type of surety bond we are requesting is not available unless FPE issues a letter of credit, underwriting the surety bond. FPE would be willing to issue a letter of credit to underwrite the surety bond; however, the same issue arises, that is, FPE can only obtain an annual term letter of credit. Therefore, FPE has been advised by its surety provider that there is not a commercially feasible way for FPE to meet the Section requirement of the Rule.

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FPE believes that an annually renewed surety will protect and serve the public interest and the waiver will not disrupt the orderly and efficient resolution of matters before the Commission. Further, FPE believes that, given the above explanation detailing the onerous circumstances of complying with the Section, that FPE has provided an alternative compliance solution that fulfills the purpose of the Section.

For these reasons, we ask the Commission to waive the Section of the Rule for FPE and accept the alternative compliance solution provided.

Please do not hesitate to contact me at (203) 663-5087 with any questions.

Respectfully submitted,



Martine Trinka

ATTACHMENT 1



THE CRIUS ENERGY FAMILY OF BRANDS

Viridian

Cincinnati Bell energy

FairPointEnergy

FTReneryservices

PublicPower

DM 11-175



THE BANK OF NEW YORK MELLON

OUR. NO.
S00297794

CORRESPONDENT'S REF. NO.
CL00731111

DATE
AUGUST 23 2013

PUC AUG26'13 AM 9:35

BENEFICIARY:
NEW HAMPSHIRE PUBLIC UTILITIES
COMMISSION
21 SOUTH FRUIT STREET, SUITE 10
CONCORD, NH USA 03301

CORRESPONDENT:
MACQUARIE BANK LIMITED
EXCHANGE CENTRE, LEVEL 26
20 BOND STREET
SYDNEY 2000, AUSTRALIA

DATE OF ORIGINAL ISSUE:
NOVEMBER 23 2011

AMENDMENT DATE:
AUGUST 23 2013

GENTLEMEN/LADIES:

THE ABOVE MENTIONED INSTRUMENT INCLUDING ANY PREVIOUS AMENDMENTS;
IS AMENDED AS FOLLOWS:

LATEST EXPIRATION DATE SEPTEMBER 30 2014

ADDITIONAL CONDITIONS:

AMENDMENT NUMBER 1
THE ISSUING BANK STATES:

-QUOTE-
THE EXPIRY DATE IS EXTENDED TO 30 SEP 2014. ALL
OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

-UNQUOTE-
THIS AMENDMENT IS TO BE CONSIDERED AS PART OF THE
ABOVE CREDIT AND MUST BE ATTACHED THERETO.

ALL OTHER CONDITIONS REMAIN UNCHANGED.

YOURS VERY TRULY,

Audrea Malinszak
AUTHORIZED SIGNATURE

TRN DCS-130822-2220400

BMXA

PSN 12124 S903PH37



THE BANK OF NEW YORK MELLON

OUR. NO.
S00297794

CORRESPONDENT'S REF. NO.
CL00731111

DATE
AUGUST 28 2013

BENEFICIARY:
NEW HAMPSHIRE PUBLIC UTILITIES
COMMISSION
21 SOUTH FRUIT STREET, SUITE 10
CONCORD, NH USA 03301

CORRESPONDENT:
MACQUARIE BANK LIMITED
EXCHANGE CENTRE, LEVEL 26
20 BOND STREET
SYDNEY 2000, AUSTRALIA

DATE OF ORIGINAL ISSUE:
NOVEMBER 23 2011

AMENDMENT DATE:
AUGUST 28 2013

GENTLEMEN/LADIES:

THE ABOVE MENTIONED INSTRUMENT INCLUDING ANY PREVIOUS AMENDMENTS,
IS AMENDED AS FOLLOWS:

ADDITIONAL CONDITIONS:
AMENDMENT NUMBER 2
THE ISSUING BANK STATES:

-QUOTE-

PLEASE INSERT THE FOLLOWING

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT
IT SHALL BE AUTOMATICALLY EXTENDED WITHOUT
AMENDMENT FOR PERIODS OF ONE YEAR FROM THE PRESENT
OR ANY FUTURE EXPIRATION DATE UNLESS WE NOTIFY THE
BENEFICIARY IN WRITING VIA REGISTERED MAIL OR
OVERNIGHT COURIER SERVICE, AT LEAST NINETY (90)
DAYS PRIOR TO SUCH EXPIRATION DATE, THAT WE ELECT
NOT TO EXTEND THIS LETTER OF CREDIT FOR SUCH
ADDITIONAL PERIOD. UPON RECEIPT BY YOU OF SUCH
NOTICE, YOU MAY DRAW HEREUNDER AT ANY TIME BEFORE
THE THEN EXPIRY DATE BY PRESENTATION OF YOUR SIGHT
DRAFT DRAWN ON US AND NO STATEMENT IS REQUIRED.
ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

-UNQUOTE-

THIS AMENDMENT IS TO BE CONSIDERED AS PART OF THE
ABOVE CREDIT AND MUST BE ATTACHED THERETO.

ALL OTHER CONDITIONS REMAIN UNCHANGED.

YOURS VERY TRULY,

AUTHORIZED SIGNATURE

- CONTINUED ON NEXT PAGE -

TRN DCS-130827-1059800 BMXA PSN 12162 S903PH37



THE BANK OF NEW YORK MELLON

L/C S00297794 /

NEW HAMPSHIRE PUBLIC UTILITIES

TRN DCS-130827-1059800

BMXA

PSN 12162 S903PH37

1-070-0510-BLANK (10/11) PD 7/13

ATTACHMENT 2

The names, titles, business addresses, telephone numbers, and e-mail addresses of the applicant if an individual, or of the applicant's principal(s) if the applicant is anything other than an individual;

Please see below for the names, titles, business addresses, telephone numbers and email addresses for FairPoint Energy's principals.

Name	Title	Business Address	Telephone Number	Email Address
Michael J. Fallquist	Chief Executive Officer	1055 Washington Blvd. Seventh Floor Stamford, CT 06901	(203) 663-7545	mfallquist@criusenergy.com
Roop Bhullar	Chief Financial Officer	1055 Washington Blvd. Seventh Floor Stamford, CT 06901	(203) 883-9900	rbhullar@criusenergy.com
Chaitu Parikh	Chief Operating Officer	1055 Washington Blvd. Seventh Floor Stamford, CT 06901	(203) 883-7503	cparikh@criusenergy.com
Jan L. Fox	Chief Legal Officer	1055 Washington Blvd. Seventh Floor Stamford, CT 06901	(203) 517-0130	jfox@criusenergy.com
Cami Boehme	Chief Strategy Officer	1055 Washington Blvd. Seventh Floor Stamford, CT 06901	(203) 663-7537	cboehme@criusenergy.com
Mike Chester	VP, Operations	1055 Washington Blvd. Seventh Floor Stamford, CT 06901	(203) 663-7558	mchester@criusenergy.com