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August 26, 2015

Debra A. Howland  
Executive Director and Secretary  
Public Utilities Commission  
21 South Fruit Street  
Concord, NH 03301-2429

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Re: Public Service Company of New Hampshire, DE 14-238, Request for Hearing on Terry Cronin Motion to Compel

Dear Secretary Howland:

Residential rate payer and intervener Terry Cronin respectfully requests that his Motion to Compel be scheduled for oral on record hearing before the Commission or an appropriately designated hearing examiner.

Intervener Cronin timely filed his Motion to Compel responses to his Data Requests. Eversource Energy objected.

Reasons for the Cronin Request for Hearing

1. The Eversource Energy Objection improperly assumes that the "2015 Settlement Agreement" is a valid settlement subject only to Commission public interest review.

Intervener Cronin, as set forth in his Petition for Intervention, rejects this conclusion. The "2015 Settlement Agreement" does not bind Intervener Cronin or any other rate payer.

2. The "Settling Parties" have no proper claim to represent the interests of residential rate payers.

No party to the "2015 Settlement Agreement" represented the interests of residential rate payers.<sup>1</sup> No residential rate payer was invited to participate in the secret settlement discussion. None of the signatories to the "2015 Settlement Agreement" are proper parties to an agreement that purports to bind rate payers to an agreement that will obligate them to the payment of significant and unquantified stranded costs over a period of many years. The Office of Energy and Planning, an adjunct of the Office of the Governor and Senators Bradley and Feltes have no standing to

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<sup>1</sup> The Office of Consumer Advocate, a "Settling Party", the putative rate payer representative cannot adequately represent residential rate payers because of the concerns Intervener Cronin has that the OCA is subject to political pressures. The last Consumer Advocate was denied a second term in November 2011 for opposing the Laidlaw wood-burning plant in Berlin as well as for concerns she raised following the PSNH 2008 estimated cost increase from \$250 million to \$457 million on the scrubber project for the MK2 plant at the end-stage of its life expectancy. She opposed both matters over their costs to rate payers.

represent residential rate payers but are the political players who orchestrated the “2015 Settlement Agreement” at the behest of Eversource Energy. Signatories such as the City of Berlin, IBEW 1837, the Conservation Law Foundation, the Retail Energy Supply Association, TransCanada, the New England Power Generators Association, Inc. and the NH Sustainable Energy Association are entities with no motivation whatever to represent the interests of residential rate payers. These entities seek to advance the interests of their organizations.

3. A Commission ruling that the “Settlement Agreement” is binding on residential rate payers will be premature and a breach of contract law.

If the Commission denies the Motion to Compel of Intervener Cronin on the basis of the Eversource Energy argument that the “2015 Settlement Agreement” is a legally binding document on residential rate payers the Commission will have erred to the substantial prejudice of residential rate payers. While public policy favors the settlement of disputes to avoid litigation, the settlement must be a valid contract with a meeting of minds amongst proper parties. The terms must be clear demonstrating that the parties have the same understanding of the deal.<sup>2</sup> There must be an offer of compromise and acceptance of that offer. West’s Encyclopedia of American Law, 2d. Compromise and Settlement. No residential rate payer was a party to the “2015 Settlement Agreement”.

Chapter 541-A, the Administrative Procedure Act at RSA 541-A: 38, although encouraging settlement, expressly provides that a party is not required to settle a matter pursuant to informal procedures. The “2015 Settlement Agreement” was an informal, extra-judicial deal from which real parties in interest, residential rate payers, were excluded.

4. The Cronin Data Requests 1, 2, 6 and 7 ask for information critical to a proper determination of stranded costs before the costs are recoverable under RSA 374-F: 3, XII, all as detailed in his Motion to Compel.

Oral argument will permit the Commission to understand and discard specious Eversource Energy arguments such as that asserted in paragraph 5. of the Objection to the Motion to Compel.

For example, the company argues that Intervener Cronin should have participated in dockets DE 08-145 and DE 11-250 if he wished to question matters regarding the installation of the MK2 turbine or the scrubber.

A reading of Order 25,008, dated September 1, 2009, in DE 08-145, shows that the company argument is misleading. In Order 25,008 the Commission determined only that Eversource Energy did not have to seek prospective approval of the turbine replacement under RSA 369-B: 3-a. (Order, page 13). The Commission expressly noted that matter is subject to retrospective review. (Order, page 12). The Order requiring retrospective review is particularly material to the Cronin Data Requests regarding the whether the scrubber project included generation upgrades beyond that permitted by RSA 125-O:13, IV to offset the parasitic load of the scrubber. Put simply, that determination could not have been made until after the scrubber was operational and real time data

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<sup>2</sup> None of the terms of the “2015 Settlement Agreement” are clear. The deal refers only to categories of costs sought to be recovered. The categories are without quantification, vague and subject to after the fact manipulation. The cost categories, and the costs contemplated by the categories, are like a floating cloud, changing shape as the days, months, and years pass.

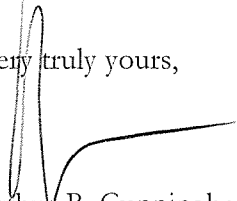
on was available. Eversource Energy asserted in DE 11-250 that the scrubber became operational in September, 2011. Until that time, when data should have become available, no retrospective review by the Commission could have been undertaken.

The Commission did not decide anything required of it by RSA 125-O in DE 11-250; the costs of the scrubber project; the used and useful date of the scrubber; the generation capacity, gross and net, before and after the parasitic load of the scrubber; the equity return, if any, beginning on what date and in what amount; and, was the project prudent.

It was Eversource Energy who asked the Commission to yield its adjudicative responsibilities before DE 11-250 was final. It was not Intervener Cronin or any other residential rate payer. Therefore, the company cannot complain that Intervener Cronin did not participate in the docket.

Intervener Cronin, for himself and other residential rate payers, respectfully requests that he be heard on his Motion to Compel.

Very truly yours,



Arthur B. Cunningham

cc: Service list