

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 13-275**

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE**

**Petition to Establish 2014 Energy Service Rate**

**Order Defining Scope of Docket and Addressing Motions to Intervene**

**ORDER NO. 25,596**

**November 15, 2013**

**APPEARANCES:** Matthew J. Fossum, Esq. on behalf of Public Service Company of New Hampshire; Christophe G. Courchesne, Esq. on behalf of Conservation Law Foundation; Murtha Cullina LLP by Robert J. Munnely, Esq. on behalf of North American Power and Gas, LLC; the Office of Consumer Advocate by Susan W. Chamberlin, Esq. on behalf of residential ratepayers; and Suzanne G. Amidon, Esq. on behalf of Commission Staff.

**I. PROCEDURAL HISTORY**

On September 27, 2013, Public Service Company of New Hampshire (PSNH or Company) filed a petition to set its default energy service (ES) rate for effect with service rendered on and after January 1, 2014. With its petition, PSNH also filed supplemental information regarding its review of the costs associated with its generation assets. On October 11, 2013, PSNH filed updated testimony in support of its petition. The Commission issued an Order of Notice on October 9, 2013 scheduling a prehearing conference for October 28, 2013.

On October 11, 2013, North American Power and Gas, LLC (NAPG) filed a petition to intervene and the Office of Consumer Advocate (OCA) filed a letter of participation in the docket pursuant to RSA 363:28. On October 23, 2013, Conservation Law Foundation also filed a petition to intervene, and PSNH filed an objection to both NAPG's and CLF's petitions to intervene on October 28, 2013.

The Commission heard arguments on the motion to intervene at the prehearing conference which was held as scheduled. Following the prehearing conference, the parties met in technical session and agreed upon a proposed procedural schedule which Staff filed on October 30, 2013. The proposed procedural schedule is as follows:

Rolling Data Requests	Through November 8, 2013
DR Responses	November 15, 2013
Technical Session	November 21, 2013 at 9:00 a.m.
Staff/Intervenor Testimony	November 27, 2013
DRs on Testimony	December 4, 2013
DR Responses	December 11, 2013
PSNH Update	December 12, 2013
Update Phone Conference	December 13, 2013
Merits Hearing	December 16, 2013 at 11:00

## **II. POSITION OF THE PARTIES**

### **A. Northern American Power and Gas**

NAPG based its interest in the docket on the “encouragement and protection of a fair and competitive retail marketplace” and that “issues related to PSNH’s legacy costs and other issues have the potential to directly affect the competitive retail marketplace in which NAPG operates.” NAPG petition to intervene at 2. NAPG stated that it had a strong interest in assuring that PSNH sets a proper rate. In support of its petition to intervene, NAPG also stated that the Commission had granted “similar” interventions in Docket No. DE 09-180, PSNH’s docket to establish an ES rate for 2010. In addition, NAPG argued at the prehearing conference that, as a competitive supplier, it competes with PSNH, and that it has an interest regarding the reconciliation of the alternate default service rate offered by PSNH. October 28, 2013 Hearing Transcript (Tr.) at 10.

### **B. Conservation Law Foundation**

CLF’s petition to intervene argued that CLF represents the interest of its New Hampshire members 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. CLF Petition at 1. CLF indicated that it is a voting member and participant in the New England Power Pool (NEPOOL) in line with its belief that “vibrant competitive energy markets facilitate competition and innovation which attenuates environmental impacts.” *Id.* at 2.

CLF said that decisions made by PSNH in serving its default service customers, including matters related to generating and supplying energy, dictate the costs of PSNH’s energy service and the extent to which its generation will operate, as well as the resulting environmental impacts and energy service rates. According to CLF, the economic interests of approximately 300 CLF members as PSNH ratepayers, in addition to environmental and health impacts, are implicated in this proceeding, and affect the rights, duties and privileges of CLF and its members. CLF argued that on that basis, its petition to intervene should be approved. CLF stated that it did not intend to litigate environmental issues in this proceeding. *Id.* at 2-3.

### **C. Public Service Company of New Hampshire**

PSNH objected to both NAPG’s and CLF’s petitions to intervene as set forth in its October 28, 2013 filing. PSNH argued that neither NAPG nor CLF had stated a right, duty, privilege, immunity or other substantial interest as required by RSA 541-A:32 and, therefore, the petitions should be denied.

In response to NAPG’s arguments, PSNH pointed out that the order of notice in this docket clearly states that the docket pertains to PSNH’s rate setting pursuant to applicable law, and does not concern issues related to a “fair and competitive electric marketplace” or involve consideration of PSNH’s legacy costs. PSNH objection at 2. Further, PSNH noted that in the order of notice in DE 09-180, one of the issues specifically identified was “whether and how to

address the rate impacts resulting from customer migration and whether those impacts are consistent with the restructuring principles of RSA 374-F.” (October 5, 2009 Order of Notice in DE 09-180 at 2). PSNH asserted that such issues are not noticed in this case, the interventions in Docket No. DE 09-180 are dissimilar to the instant case, and NAPG’s petition should be denied. *Id.* at 2.

PSNH objected to CLF’s motion to intervene, noting that CLF is an environmental organization focused on environmental issues, and that the Commission is not the forum for such issues. *Id.* at 4. PSNH pointed out that CLF emphasized its concern about the continued use of PSNH’s coal-fired generation at Merrimack and Schiller Stations and argued that this rate-setting proceeding is not a docket intended to determine the economic sustainability of PSNH’s generation units, coal-fired or otherwise, or whether those units are environmentally sustainable. PSNH said that there may be other dockets where the Commission would consider such issues, but this docket is focused on rate setting according to applicable law. *Id.* at 5. PSNH concluded that CLF has not demonstrated that its interests are implicated in this proceeding, or that its participation would not impair the prompt conduct of the proceeding, which will establish a rate effective January 1, 2014.

PSNH stated that in the event that the Commission allows the intervention of either NAPG or CLF, it should limit their intervention to the scope of the docket, and that both NAPG and CLF should not be allowed access to confidential information typically provided by PSNH in such rate setting proceedings. *Id.* at 6.

#### **D. Office of Consumer Advocate**

The OCA did not object to either petition to intervene.

**E. Staff**

Staff took no position on either petition to intervene.

**III. COMMISSION ANALYSIS**

We have reviewed both petitions and PSNH's objections. NAPG stated that its principal interest is to assure that this proceeding sets a "proper" energy service rate and that its interest is in protecting the competitive electric market. We find that NAPG has failed to state a right, duty, privilege or interest in this proceeding that would require us to grant intervention pursuant to RSA 541-A:32, I(b). We will, however, grant NAPG intervention under the discretionary provisions of RSA 541-A:32, II.

Regarding CLF's petition to intervene, we similarly find that it has not stated any right, duty, privilege or interest to warrant intervention pursuant to RSA 541-A:32, I(b). CLF asserted that it represents the economic interest of its approximately 300 New Hampshire members who reside in PSNH's service territory and on that basis, we will grant CLF's motion to intervene pursuant to RSA 541-A:32, II. To the extent that CLF or NAPG requests access to information claimed as confidential information by PSNH, they shall enter into a non-disclosure agreements with PSNH for such access.

Having granted the petitions to intervene, we share PSNH's concern that some of the issues in which CLF and NAPG claimed an interest, such as the operation of the coal-fired plants at Merrimack and Schiller Stations, are outside of the scope of this docket and that discovery disputes on unrelated issues will delay the timely establishment of an ES rate for effect on January 1, 2014. We therefore remind parties that the scope of this docket is the establishment of an estimated ES rate for PSNH customers pursuant to the statutory provisions of RSA 369-B:3, IV(b)(1)(A). In this proceeding, we will not consider detailed operational data regarding

PSNH's generation plants as that will be addressed in PSNH's next reconciliation docket, plans for generation beyond 2014, environmental compliance, the competitiveness of the retail electricity market, PSNH's distribution business, ancillary projects such as Northern Pass, or future projections of the cost of power purchases or generation beyond 2014. This ruling on scope also applies to discovery in this docket on the supplemental information provided by PSNH regarding the costs associated with its generation assets. PSNH filed the supplemental information as a compliance filing, and discovery regarding that document should be limited to any information that pertains to the development of costs related to the provision of energy service for 2014.

**Based upon the foregoing, it is hereby**

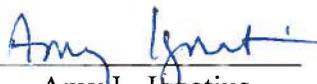
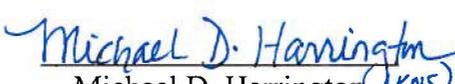
**ORDERED**, that NAPG's petition to intervene is hereby GRANTED pursuant to RSA 541-A:32, II; and it is

**FURTHER ORDERED**, that CLF's petition to intervene is hereby GRANTED pursuant to RSA 541-A:32, II; and it is

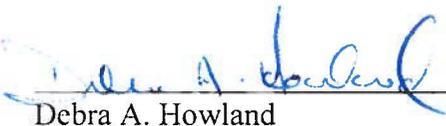
**FURTHER ORDERED**, that the parties shall abide by the scope of the docket as set forth in this order; and it is

**FURTHER ORDERED**, that the procedural schedule as set forth herein is hereby APPROVED.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of  
November, 2013.

 _____ Amy L. Ignatius Chairman	 _____ Michael D. Harrington (KMS) Commissioner	 _____ Robert R. Scott Commissioner
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Attested by:

  
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Debra A. Howland  
Executive Director