

# Orr&Reno

Professional Association

One Eagle Square, P.O. Box 3550, Concord, NH 03302-3550  
Telephone 603-224-2381 • Facsimile 603-224-2318  
www.orr-reno.com

Malcolm McLane  
(Retired)

May 22, 2007



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

**Re: DE 07-045 - Briar Hydro Associates' Petition for Declaratory Judgment**

Dear Ms. Howland:

Enclosed please find seven copies of two affidavits signed by employees of the Union Leader Corporation and the Concord Monitor stating that the Public Utilities Commission Order of Notice dated April 17, 2007 was published in accordance with the PUC rules. I have also enclosed copies of the two advertisements.

Please let me know if you have any questions.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'Howard M. Moffett'.

Howard M. Moffett

Ronald L. Snow  
William L. Chapman  
George W. Roussos  
Howard M. Moffett  
James E. Morris  
John A. Malmberg  
Martha Van Oot  
Douglas L. Patch  
Connie L. Rakowsky  
Jill K. Blackmer  
James P. Bassett  
Emily Gray Rice  
Steven L. Winer  
Peter F. Burger  
Lisa Snow Wade  
Jennifer A. Eber  
Jeffrey C. Spear  
Connie Boyles Lane  
Todd C. Fahey  
Vera B. Buck  
James F. Laboe  
Robert S. Carey  
John M. Zaremba  
Maria M. Proulx  
Jessica E. Storey  
Justin M. Boothby  
Heidi S. Cole

Susan S. Geiger  
Judith A. Fairclough  
(Of Counsel)

HMM/dlc  
Enclosures  
441867\_1

I hereby certify that the foregoing notice was published in The Union Leader and/or New Hampshire Sunday News, newspapers printed at Manchester, N.H. by the Union Leader Corporation on the following dates, Viz: . . . April 20, 2007 . . .

(Signed) . . .

Therese M. Landry

UNION LEADER CORPORATION

State of New Hampshire,  
Hillsborough, SS.

(Dated) . . .

April 25, 2007

Subscribed and sworn to by the said . . .

THERESE M. LANDRY

Before me,

Claudette T. Mitchell

CLAUDETTE T. MITCHELL, Notary Public  
My Commission Expires April 19, 2011

Notary Public

and it is

**FURTHER ORDERED**, that pursuant to N.H. Admin. Rules Puc 203.12, Briar shall notify all persons desiring to be heard at this hearing by publishing a copy of this Order of Notice no later than April 26, 2007, in a newspaper with general circulation in those portions of the state in which operations are conducted, publication to be documented by affidavit filed with the Commission on or before May 23, 2007, and it is

**FURTHER ORDERED**, that pursuant to N.H. Admin. Rules Puc 203.17, any party seeking to intervene in the proceeding shall submit to the Commission seven copies of a Petition to Intervene with copies sent to Briar, PSNH and the Office of the Consumer Advocate on or before May 18, 2007, such Petition stating the facts demonstrating how its rights, duties, privileges, immunities or other substantial interest may be affected by the proceeding, as required by N.H. Admin. Rule Puc 203.17 and RSA 541-A:32.1(b), and it is

**FURTHER ORDERED**, that any party objecting to a Petition to Intervene make said Objection on or before May 23, 2007, and it is

By order of the Public Utilities Commission of New Hampshire this seventeenth day of April, 2007.

Debra A. Howland  
Executive Director & Secretary

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the Americans with Disabilities Act Coordinator, NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.  
(UL - April 20)

## Legal Notice

THE STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION  
DE 07-045

### ORDER OF NOTICE

On March 28, 2007, Briar Hydro Associates (Briar) filed a petition with the New Hampshire Public Utilities Commission (Commission), seeking a declaratory order with respect to a 1982 Power Sale Contract with Public Service Company of New Hampshire (PSNH).

Briar stated that it is a successor in interest to New Hampshire Hydro Associates (NHHA), and owns and operates the Penacook Lower Falls Project, a 4.1 MW hydroelectric generating facility on the Contoocook River in Penacook and Boscawen, New Hampshire. Briar claims that as a result of its purchase of the Penacook Lower Falls Project on June 28, 2002, it has succeeded to NHHA's rights in a Contract for the Purchase and Sale of Electric Energy dated April 28, 1982, (1982 Power Purchase Contract). The 1982 Power Purchase Contract has a term of 30 years and requires PSNH to purchase the project's entire generation output. The current price for that output is \$3.53/kWh. PSNH is obliged to purchase power from NHHA and now Briar pursuant to the federal Public Utility Regulatory Policies Act (PURPA), 16 U.S.C. 824a-3 et seq., and its state analog, the Limited Electrical Energy Producers Act (LEEPA), RSA Chapter 362-A.

Briar requests that the Commission determine which party, PSNH or Briar, is entitled to receive payments for capacity arising under an order of the Federal Energy Regulatory Commission (FERC), Devon Power LLC, 115 FERC ¶61,340 (June 16, 2006) (FCM Order). The FCM Order established a forward capacity market for existing and new generators of electric power in New England and also provided for transition payments to existing generators beginning in December 2006.

The filing raises, *inter alia*, issues related to the scope of the 1982 Power Purchase Contract and whether it includes or excludes the purchase of the capacity of the Penacook Lower Falls Project under applicable state and federal law.

Each party has the right to have an attorney represent them at their own expense.

Based upon the foregoing, it is hereby **ORDERED**, that a Prehearing Conference, pursuant to N.H. Admin. Rules Puc 203.15, be held before the Commission located at 21 S. Fruit St., Suite 10, Concord, New Hampshire on May 23, 2007 at 10:00 a.m., at which each party will provide a preliminary statement of its position with regard to the petition and any of the issues set forth in N.H. Admin. Rule Puc 203.15 shall be considered, and it is

**FURTHER ORDERED**, that, immediately following the Prehearing Conference, Briar, PSNH, the State of the Commission and any intervenors hold a Technical Session to review the petition and allow Briar to provide any amendments or updates to its filing.

# CONCORD MONITOR

*One Monitor Drive, PO Box 1177, Concord, NH 03302-1177*

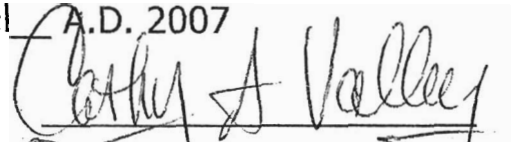
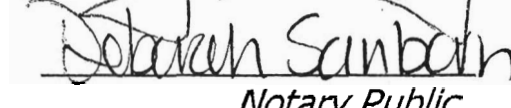
*P: 603-224-5301*

STATE OF NEW HAMPSHIRE  
County of Merrimack, SS

I, Cathy A Valley of the MONITOR PUBLISHING COMPANY, INC., hereby certify that the following advertisement(s) were published in the Concord Monitor, a daily newspaper in Concord, in said county and state, viz-in-the issue(s) of:

Public Utilities Commission Order of Notice, published April 19, 2007

Subscribed and sworn \_\_24\_\_ day of \_April\_ A.D. 2007

  
  
Notary Public

Commission Expires DEBORAH SANBORN, Notary Public  
My Commission Expires October 6, 2009

**PUBLIC NOTICE**

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PUBLIC UTILITIES COMMISSION  
DE 07-045  
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**FURTHER ORDERED**, that, immediately following the Prehearing Conference, Briar, PSNH, the Staff of the Commission and any Intervenor hold a Technical Session to review the petition and allow Briar to provide any amendments or updates to its filing; and it is

**FURTHER ORDERED**, that pursuant to N.H. Admin. Rules Puc 203.12, Briar shall notify all persons desiring to be heard at this hearing by publishing a copy of this Order of Notice no later than April 26, 2007, in a newspaper with general circulation in those portions of the state in which operations are conducted, publication to be documented by affidavit filed with the Commission on or before May 23, 2007; and it is

**FURTHER ORDERED**, that pursuant to N.H. Admin. Rules Puc 203.17, any party seeking to intervene in the proceeding shall submit to the Commission seven copies of a Petition to Intervene with copies sent to Briar, PSNH and the Office of the Consumer Advocate on or before May 18, 2007, such Petition stating the facts demonstrating how its rights, duties, privileges, immunities or other substantial interest may be affected by the proceeding, as required by N.H. Admin. Rule Puc 203.17 and RSA 541-A:32,1(b); and it is

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Debra A. Howland  
Executive Director & Secretary

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April 19