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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

July 15, 2010 - 10:12 a.m.
Concord, New Hampshire

RE: DRM 10-014 - RULEMAKING:
Puc 2000 ELECTRIC SUPPLIERS.

DRM 10-015 - RULEMAKING:
Puc 3000 Gas Suppliers.

PRESENT: Chairman Thomas B. Getz, Presiding
Commissioner Clifton C. Below
Commissioner Amy L. Ignatius

Sandy Deno, Clerk

APPEARANCES: (No appearances taken)

Court Reporter: Steven E. Patnaude, LCR No. 52

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QUESTIONS BY COMMISSIONER BELOW 18

1 P R O C E E D I N G

2 CHAIRMAN GETZ: Okay. Good morning,
3 everyone. We'll open the public hearing in Dockets DRM
4 10-014 and 10-015. And, I'll start by noting that the
5 hearings this morning are held pursuant to RSA 541-A:11
6 under the Administrative Procedures Act for the purpose of
7 taking public comments on the proposed rules. I'll note
8 for the record that all three Commissioners are present
9 and, pursuant to 541-A:11, a quorum of the members is
10 required for rules that are proposed by the Commission.

11 With respect to procedural background,
12 in Docket DRM 10-014, the Commission voted on May 13, 2010
13 to initiate a rulemaking regarding New Hampshire Admin.
14 Rule Puc Chapter 2000, Competitive Electric Supplier and
15 Aggregator rules. And, that concerns the requirements for
16 the registration of competitive electric power suppliers
17 and notification procedures for aggregators. The proposal
18 represents a readoption with amendment of the existing
19 rules, in order to update them to reflect changes in the
20 marketplace and to more clearly establish registration
21 reporting and financial requirements. Order of notice was
22 issued on May 27, and a rulemaking notice form was filed
23 with the Office of Legislative Services on May 28. The
24 notice and the order of notice set today as the date for

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1 public hearing and set a deadline for written comments,
2 which is July 22nd.

3 With respect to Docket DRM 10-015, the
4 Commission voted on January 22nd to initiate a rulemaking
5 for Admin. Rule Chapter Puc 3000, concerning Natural Gas
6 Marketer and Aggregator rules. And, the rulemaking notice
7 form was filed with the Office of Legislative Services on
8 May 28. Order of notice was issued on May 27. And, the
9 notice has set today as the date for public hearing and
10 set a deadline for written comments by July 22nd.

11 So, with that, we will open the floor to
12 public comment. And, I note that, with respect to DRM
13 10-014, Mr. Eaton, you would like to make comments?

14 MR. EATON: Thank you, Mr. Chairman. My
15 name is Gerald M. Eaton. I am Senior Counsel for Public
16 Service Company of New Hampshire. And, I will be
17 commenting on the Commission's Initial Proposal for the
18 Chapter 2000 Competitive Electric Power Supplier and
19 Aggregator rules, the annotated text that the Commission
20 voted to approve on May 13th, 2010.

21 The first comment I have is on Page 7 of
22 those rules. And, it has to do with the limit on
23 security. I'd start off by saying that Public Service
24 Company currently has between five and seven thousand

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1 customers who take service from a competitive supplier.
2 So that the context of when these rules were originally
3 promulgated has changed quite a bit. And, as we've told
4 the Commission in other dockets, about 30 percent of our
5 load is now served by competitive suppliers. So, in the
6 context of the security required by the Rule
7 2003.03(a)(3), the limit on security is \$350,000. We
8 wonder if that's enough security for some of these
9 suppliers that are serving many large customers, and we're
10 paying them checks of \$100,000 several times a month,
11 because they are serving many customers whose billing
12 cycles come up at all different times of the month. So,
13 we're collecting the revenues for them and turning it
14 around. Depending on what the Commission's interest is in
15 having security, they may want to revisit that limit based
16 upon the size of the revenues that these suppliers are
17 generating.

18 The next comment I have is on Page 13 of
19 the rules. I think the Commission puts these in to make
20 sure we read them all. There is a typographical error, I
21 believe on Page 13, in Section 2004. 04(a). The second
22 line, I think it says "for the purpose of selling an
23 product or service". So, I don't want the Commission to
24 send that over to Legislative Services where they're sure

1 to find it.

2 CHAIRMAN GETZ: Well, that would be the
3 other Mr. Eaton, apparently.

4 MR. EATON: No relation. I always have
5 to say that in rulemakings, "no relation."

6 The next comment I have, and it's the
7 most important comment that Public Service will give
8 today, is on Page 18 of the May 13th text. This is
9 proposed Rule 2004.07(b)(2), and it has to do with an
10 off-cycle meter reading. The requirement adds quite a bit
11 of language this time around, and it says nothing that
12 will prevent a CEPS from requesting an off-cycle meter
13 reading. And, on Section (b)(2), it states "The utility
14 may deny any request for an off-cycle meter reading if
15 proper notice as described in Section (1)a. above is not
16 provided." We still use employees to read meters. And,
17 we do our very best to minimize the cost of meter reading,
18 and we have a very, very tight schedule for doing meter
19 reading. And, we do off-cycle readings for transactions,
20 such as a real estate closing. In the middle of a billing
21 cycle, the seller wants to sell only -- pay for only
22 electricity that they used up to the date that the
23 property transferred, and then the new buyer picks it up.
24 And, we can do an off-cycle reading for that, and I think

1 our tariff charge is \$35.

2 But, with the number of customers that
3 are currently taking service from a -- from competitive
4 suppliers, we would be hard-pressed to deal with 100 of
5 these requests in a month, or 100 of these requests in a
6 day. For instance, if it happened in the week of
7 Thanksgiving, where we have few -- or, in that month of
8 November, we've got three holidays, the Veterans Day,
9 Thanksgiving Day, and the day after Thanksgiving, we would
10 fall way behind in our regular meter reading cycle if we
11 had to respond to several off-cycle readings.

12 So, I would suggest that the -- we could
13 add language to that section that would say that "the
14 off-cycle reading" -- I'm sorry, "The utility may deny any
15 request for an off-cycle meter reading if proper notice as
16 described in (1)a. above is not provided or if the
17 off-cycle reading or readings cannot be accommodated in
18 the utility's normal meter reading schedule." So, it
19 would give some discretion to the utilities, if they were
20 inundated with requests for off-cycle readings.

21 Currently, service has always changed on
22 the regular meter reading date. We have not experienced
23 off-cycle readings for competitive suppliers. But they
24 are businesses, and they may want to do business

1 differently. And, as this grows, it will put pressure on
2 our current personnel, which may result in overtime for
3 meter reading cycles that have to get moved out and have
4 to be completed within the normal period. It may mean
5 overtime or adding additional personnel. So, we'd like
6 the discretion to be able to limit this to something that
7 we can accommodate in our ordinary meter reading cycle.

8 CHAIRMAN GETZ: So, Mr. Eaton, it's
9 really not an issue of denying the request then, it's the
10 time in which the request would be fulfilled?

11 MR. EATON: Right. Right. It may be --
12 it will be no later than a month, because, if we got the
13 request on the first day of the meter reading cycle, and
14 we just simply couldn't do it, we would wait until the
15 next meter reading, normal meter reading. But we would
16 try to accommodate it, but it would give us some
17 discretion to be able to schedule it so that we could
18 handle it along with our regular meter readings.

19 And, the final question we have or
20 comment is on the next page, in the "Release of Customer
21 Confidential Information". It's a question we have on
22 Rule 2004.09(b)(2). We wonder why confidential customer
23 information no longer includes customer usage data? The
24 information is shared between competitive electric power

1 suppliers and the utilities for the reason of billing, if
2 we do the meter reading and the billing, but those -- that
3 information is kept confidential. And, we wonder why now
4 customer usage data is no longer a confidential matter,
5 and we believe it should be. Because we -- our company's
6 policy has always been to protect customer usage data.

7 Those are the only comments we have on
8 the rules.

9 CMSR. IGNATIUS: Thank you. A couple of
10 questions, Mr. Eaton. On the last one, regarding customer
11 data, if you look at Section (c) below that, that allows
12 for the terms under which a competitive supplier or
13 aggregator can obtain customer data, does that help at all
14 in your concern or get to a different point and there's
15 still something missing in your view?

16 MR. EATON: Well, that would be
17 obtaining customer usage information from PSNH or from a
18 previous supplier. But Section (a) states that --
19 prohibits the competitive supplier or aggregator from
20 releasing confidential customer information without
21 written authorization. And, as it relates to the
22 competitive supplier or aggregator, customer usage data
23 isn't considered to be confidential information. We will
24 always consider it to be, and we'll require -- require the

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1 authorization of the customer.

2 CMSR. IGNATIUS: Right. And, as I
3 understand it, the rules don't change anything as it
4 relates to you, as a regulated utility?

5 MR. EATON: No, it doesn't.

6 CMSR. IGNATIUS: It's whether the
7 competitive supplier should have a similar restriction on
8 releasing customer data?

9 MR. EATON: Yes. As I said in my
10 comments, it's a question of why that's coming out for the
11 competitive suppliers and remains for us. Not that
12 there's any kind of -- it's just I don't know why that's
13 no longer confidential with respect to the competitive
14 supplier.

15 CMSR. IGNATIUS: All right. And, then,
16 I wanted to ask you two other things on, although I could
17 come back to it, if there's other questions on this --

18 CMSR. BELOW: On this point, I believe
19 maybe Staff can help address this, but I believe that
20 there's another part of the rules concerning customer
21 relations that address this issue. And, so, there were
22 some concern about having it in two different portions of
23 rules. As well as the fact that previously this referred
24 to "electric distribution company", even though I don't

1 believe that the rules in general apply to the
2 distribution companies. But that -- although, I can't
3 remember the reference off the top of my head to where
4 else this is addressed in the rules, but there was --

5 CHAIRMAN GETZ: Mr. Fossum, do you have
6 any background on this point?

7 MR. FOSSUM: I do. But, unfortunately,
8 I've forgotten some of the conversation that occurred at
9 the time that this change was made. But I'll note a
10 couple of things. First of all, 2004.09(b) says that
11 "confidential information shall include, but not be
12 limited to". So, even striking that language doesn't
13 necessarily mean that the customer usage data is
14 automatically disclosable.

15 Additionally, if I recall correctly,
16 customer usage data by itself is -- I don't know that it's
17 particularly harmful to any person's interest in any way.
18 The name, address, telephone number, and all payment
19 information would be protected. It's simply a matter of a
20 customer has a use of a certain amount. But there's no
21 identifying information to go with that. As far as a
22 competitive supplier or aggregator would be concerned,
23 that usage data would be, I would think, necessary to some
24 degree for them to define what it is that they're

1 responsible to provide.

2 CHAIRMAN GETZ: Thank you.

3 CMSR. IGNATIUS: Thank you. I had a
4 question about a couple of the other areas that both
5 related to what your direct experience has been thus far,
6 to help us understand what's really going on out there.
7 On Page 18, the meter reading issue, did you say that you
8 don't currently have requests for off-cycle meter readings
9 from these competitive suppliers, but there may become
10 more as there are more customers taking from competitive
11 suppliers?

12 MR. EATON: Right. And, as it may
13 become more attractive to them and more profitable to them
14 to make the change earlier than later, to -- as the
15 numbers get higher, if you've got a portfolio of a few
16 hundred customers, and you want to add several customers,
17 in order to maximize your profit for the last 20 days of a
18 billing cycle, "we want them all done on the 10th day, and
19 we want them all done around Market Square, in
20 Portsmouth." That may mess up that particular meter
21 reading route, so that it's one we weren't going to do on
22 that day, but now we have to send a meter reader out to
23 make those 10 or 20 mid-cycle readings. And, we'd just
24 like the discretion to be able to deny it, if it's

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1 difficult to accommodate it in our normal meter reading
2 schedule.

3 CMSR. IGNATIUS: All right. But you
4 currently don't have many requests from competitive
5 suppliers for these kinds of mid-cycle readings?

6 MR. EATON: Let me check to be sure. Do
7 we have many?

8 MR. DOWNING: No, it's pretty rare that
9 they -- it's only been asked a couple of times, and the
10 tariff says "no". And, I mean, if we keep it as only on
11 cycle, for enrollments and drops, should only be done on
12 cycle. The off-cycle thing I think is going to create a
13 lot of extra work and overtime, and several departments
14 process this. I mean, you have one customer that has 700
15 accounts, if they wanted to enroll and was processed, it
16 was done on several -- it was done on the cycle read
17 dates, so they were spread out and it didn't affect us.
18 But, if that same supplier tried to enroll 700 accounts on
19 a certain day, I don't even know how it would be done, we
20 would have to read it over several days and then back up
21 the reads, which would involve departments to be doing
22 that processing. So, it can really snowball very quickly,
23 when you have customers with some with 700, some with
24 1,000 accounts per customer, it could just skyrocket.

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1 MR. EATON: For the Commission's
2 information, this gentleman is Aaron Downing, and he's the
3 person who is the intermediary between Public Service
4 Company and competitive suppliers. And, he brought up a
5 point I forgot, is that McDonald's could move from one
6 competitive supplier to another and wants to do that on
7 the 1st of September, and tells us on the 26th of August.
8 McDonald's restaurants are located throughout New
9 Hampshire. And, we would need to make all those
10 off-cycle, there probably would be some cycles that would
11 land on September 1st, but chances are they could be any
12 number of 20 billing cycles during a month. And, there
13 would be one customer that's changing several accounts.
14 And, in addition to meter reading, there's also the
15 Billing Department that would have to make those changes
16 all on one day. So, it would involve -- involve at least
17 two, maybe three departments at PSNH to do that work.

18 CMSR. IGNATIUS: Well, is there a
19 different tariff provision, I may have misunderstood what
20 you said, is there a separate tariff provision for
21 enrollment as a customer or a discontinuance as a
22 customer? Does that come under a different tariff than
23 the mid-cycle read tariff provision that has the \$35ed
24 charge?

1 MR. EATON: I believe, in our supplier
2 tariff, terms and conditions for competitive suppliers,
3 the on/off provision of that tariff is on a, and correct
4 me if I'm wrong, Mr. Downing, is on a normal meter reading
5 cycle. I think we were perhaps jumping ahead and thinking
6 that a mid-term reading would also mean an on/off type of
7 approach, so there would be a conflict in between the
8 Commission's rules and our tariff, because the meter
9 reading would be sometime in the middle of a cycle and our
10 tariff might be in conflict with the Commission's rules as
11 they're proposed.

12 CMSR. IGNATIUS: Well, perhaps Staff can
13 think that one over, are they separate or the same
14 provisions, and think about ways we might be able to
15 address that. Let me just ask you one more question. On
16 your Page 5, yes, --

17 CHAIRMAN GETZ: Before we go there, let
18 me just ask this question, Mr. Eaton. So, the concern you
19 have is, with a short turnaround, a really high number of
20 accounts need to be -- meters need to be read and accounts
21 need to be transferred. Does it help to have more than
22 the five days notice or does it get too complicated to
23 say, "if there's going to be more than X meters affected
24 or X customers affected, then there shall be this larger

1 notice requirement"? So, it becomes a scheduling issue or
2 is it still the concern that you're just going to have,
3 even if you have more notice, there's going to be a big
4 bottleneck all at once?

5 MR. EATON: I think it's the scheduling,
6 that's the second point that you made, Mr. Chairman. It
7 has to do with whether we can accommodate the request in
8 the normal meter reading cycle. And, if it's occasional,
9 if it happens just once in a while, of course, we'll do
10 what -- we'll do what we can, as we would with the
11 requests that we get now, for on/offers, has to do with a
12 customer that a location is changing hands in the middle
13 of a meter reading cycle. But we are concerned that we
14 won't be able to accommodate the request, even if it's two
15 weeks notice, if it all happens -- all requested on the
16 same day.

17 CHAIRMAN GETZ: Okay. Thank you.

18 CMSR. IGNATIUS: If there's nothing else
19 on that question then, I wanted to follow up on your
20 comments on Page 7, Section 2003.03(a)(3), which was the
21 \$350,000 cap on security, and whether that's too low, in
22 light of some very large competitive suppliers.

23 MR. EATON: Uh-huh.

24 CMSR. IGNATIUS: Again, what has your

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1 experience been thus far, in terms of competitive
2 suppliers being able to meet their obligations?

3 MR. EATON: They have been able to meet
4 all of their obligations. And, again, I'm not sure what
5 the Commission's interest is in having this security,
6 whether you want the security to cover a reasonable amount
7 of the power that's being supplied during the month or
8 not. But the 350,000 doesn't really compare to some of
9 the amounts that are even monthly. And, with the rules
10 that come just before that, Rule (2)(b) and Rule (2)(c),
11 are geared towards 20 percent of the estimated gross
12 receipts. Certainly, the annual gross receipts from some
13 of the suppliers are quite large. And, if the Commission
14 would like, I could provide, without identifying any
15 particular supplier, I could identify the magnitude of
16 some of the monies that we do handle that go through our
17 company in the course of a year, and supply those in our
18 comments on the 22nd, so that you could have an order of
19 magnitude of what we're dealing with. It just seemed like
20 a very low number, where I know some checks are written in
21 six figures on a regular basis, not to one particular
22 supplier, but, on a monthly basis, they're written that
23 large.

24 CMSR. IGNATIUS: I think that would be

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1 helpful. Also, does PSNH have its own financial
2 requirements when it deals with a competitive supplier for
3 other security, other ways to protect that transaction, or
4 is this PUC-required security the only thing you have?

5 MR. EATON: We do not. All we have are
6 charges that recover our expense of registering and
7 interfacing with a competitive supplier. And, those
8 charges I believe are contained in our tariffs.

9 CMSR. IGNATIUS: Thank you very much.

10 CMSR. BELOW: And, along those lines, I
11 think you said earlier that some competitive suppliers
12 you're paying 100,000 or more per month. And, I guess
13 that offer that you made to provide more information would
14 be helpful. Because, at 100,000, that's still well within
15 the criteria from the previous section, the "20 percent of
16 annual gross receipts" is equivalent to 2.4 months of
17 gross receipts for the Company, which, at 100,000 a month,
18 is 240,000. So, it would be useful to get some handle on
19 what you're actually experiencing with the largest
20 competitive suppliers.

21 MR. EATON: Okay. I will provide that
22 in our comments.

23 CHAIRMAN GETZ: Okay. Thank you, Mr.
24 Eaton. Mr. Taylor.

1 MR. TAYLOR: Thank you, Commissioner.
2 My name is Patrick Taylor. I'm from the McLane, Graf,
3 Raulerson & Middleton law firm, and I'm here to speak on
4 behalf of National Grid. I just want to say at the outset
5 that the Company has participated in this process from the
6 beginning. We really feel that it's worked. The Company
7 appreciates the opportunity to have their comments on the
8 proposed rules heard. And, it's clear that the Commission
9 has been very attentive to the Company's comments and gave
10 them serious consideration when drafting the proposed
11 rules, and that is really appreciated.

12 Moving on to Puc 2004.07(b), this is a
13 rule that Mr. Eaton already addressed, and I think his
14 comments are well taken. The Company appreciates that the
15 Commission proposed a five day written notice period. I
16 think, as a practical matter, just putting aside the
17 comments that Mr. Eaton gave, the Company would prefer
18 five business days. Because, as a -- again, for practical
19 purposes, it's difficult to mobilize when you have
20 weekends, holidays, things like that. So, for example, if
21 a request came in on a Thursday morning or late on a
22 Wednesday, they really would only have two days to get the
23 meter read done, as opposed to the full five. And, so,
24 the request was that it be changed to "business days".

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1 Or, if the Company isn't comfortable using business days
2 -- I'm sorry, if the Commission isn't comfortable using
3 business days as a measurement, then use an enlarged
4 period of notice, such as "seven days" or something like
5 that. That's really our only comment there.

6 Puc 2004.09(b) was another one, and this
7 has to do with confidential customer information. Really,
8 the only comment here is the Company would suggest the
9 inclusion of "customer e-mail addresses" in the definition
10 of "confidential customer information". That's not
11 currently included in the definition, but it seems
12 appropriate it be included there.

13 Beyond that, those really are the
14 comments that I have today. And, I want to thank you for
15 the opportunity to give them.

16 CHAIRMAN GETZ: Thank you.

17 MR. TAYLOR: Thanks.

18 CHAIRMAN GETZ: Mr. Fossum, does Staff
19 have anything this morning?

20 MR. FOSSUM: No, sir. Nothing further
21 from Staff this morning.

22 (Chairman and Commissioners conferring.)

23 CMSR. IGNATIUS: Mr. Fossum, the issue
24 of the mid-cycle read provisions and the difficulty of

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1 bringing a large number of customers on or off off a
2 regular schedule that Mr. Eaton raised, makes me wonder
3 whether Staff had anticipated in the draft rule that the
4 mid-cycle read was related to the question of customers
5 coming on or off or whether that on and off transaction is
6 not contemplated under this mid-cycle read provision in
7 your view?

8 MR. FOSSUM: I do not believe that the
9 issue as described by Mr. Eaton was what Staff had
10 contemplated in making the revisions to the rule. The
11 previous rule existed -- as it existed simply said that
12 nothing prevented this competitive supplier from
13 requesting a meter reading. And, in some of the initial
14 comments that we had received on -- prior to adoption of
15 this Initial Proposal, it was indicated that that was --
16 that provision was not limited in any fashion whatsoever,
17 and that a competitive supplier could make a request at
18 any time reasonable or not, and the utility would have to
19 respond immediately, essentially was how one commenter had
20 understood that provision. So, this addition was meant
21 simply to limit the ability of competitive suppliers to
22 make infinite requests for off-cycle readings, and to
23 provide the utility with a means to recover for the cost
24 of actually having to perform them. And, I would say, to

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1 my recollection, that was the -- essentially, the analysis
2 that was done, was to attempt to craft somewhat limiting
3 language to the otherwise unlimited provision. I don't
4 know that any consideration was given to this on and off
5 cycle reading as Mr. Eaton had described it though.

6 CMSR. IGNATIUS: Thank you.

7 CHAIRMAN GETZ: All right. Is there
8 anything further?

9 (No verbal response)

10 CHAIRMAN GETZ: Hearing nothing, then we
11 will close this public hearing. Thank you, everyone.

12 (Whereupon the hearing ended at 10:46
13 a.m.)

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