August 25, 2011

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

Re: <u>Repromulgation of Puc Chapter 1200 - Uniform Administration of Utility
Customer Relations</u>, Docket No. DRM 10-296

Dear Secretary Howland:

At the hearing before the Joint Legislative Committee on Administrative
Rules ("the Committee"), held on August 18, 2011, the Office of Consumer Advocate
("OCA") made some suggestions for changes to the Final Proposal as described in
detail below. Attorney Scott Eaton of the Office of Legislative Service, who advised
the Committee on these proposed rules, suggested the Commission could make
changes in the final proposal by making a further Conditional Approval Request
before the Committee reconvenes on September 1, 2011. Public Service Company of
New Hampshire ("PSNH") hereby respectfully suggests that the Commission not
make the changes requested by the OCA.

Attorney Hatfield suggested that the provisions of the proposed N. H. Code
Admin. Rules Puc §§ 1205.03 (d) and (f) do not go far enough but should also include
a provision for appeal to the Commission by the customer. PSNH contends that
customers do not have a right to a hearing before the Commission under statutory
law now and should not be afforded such a right through rulemaking. The
Commission is always free, in its discretion, to grant a hearing request from a
customer who is dissatisfied with the outcome of a Staff determination not in the
customer's favor. RSA 541-A:31, II; RSA 365:4.

A specific statutory chapter exists, RSA 363-B, which specifies the process
required for notification to the customer of the utility's intent to terminate service to
a residential customer and the steps the customer is entitled to take to contest the
termination. RSA 363-B:2 permits the customer to request a conference with the
utility to question or contest the termination followed by a request for a conference

with a member of the Commission's Staff. The procedures a customer must follow are more specifically described in the Commission's rules at Puc §1203.16 <u>Disconnection Conferences.</u> After the Commission Staff has granted permission to the utility to proceed with termination of service to a medical emergency customer, the utility is required to send a disconnect notice by proposed rule Puc § 1205.03(f). The standard disconnect notice contains information which guides the customer as to how to contact the utility, how to contact the Commission and how to contest the reason for disconnection. Puc §1203.11(b)(2)h, i and j.
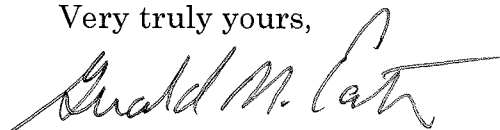
PSNH does not believe the pending final proposal should create a right to appeal to the Commission, as suggested by the OCA. "Rules adopted by State boards and agencies may not add to, detract from, or in any way modify statutory law." *Appeal of Campaign for Ratepayers Rights*, ___ NH ___9 slip op at 6-7 (July 21, 2011); *citing, Kimball v. N.H. Bd. of Accountancy*, 118 N.H. 567, 568 (1978). The OCA's suggestion would add a right of appeal by the customer to the Commission where no right now exists under statutory law.

Puc §1205.03 <u>Disconnections of Service to Medical Emergency Customers.</u> (proposed)

(d) When the utility seeks commission authorization to disconnect service pursuant to this section, it shall notify the customer in writing of its request and provide a copy of the request for authorization at the same time.

. . .

(f) Upon approval by the commission of disconnection, the utility shall provide notice to the customers as required in prior to disconnecting service.

Very truly yours,

Gerald M. Eaton
Senior Counsel

Enclosures
cc: Meredith A. Hatfield, Esq., Office of Consumer Advocate
   Lynn H. Fabrizio, Esq., Hearings Examiner
   Alan Linder, Esq.
   Service List