

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Public Service Company of New Hampshire

Investigation of Merrimack Station Scrubber Project and Cost Recovery

Docket No. DE 11-250

OBJECTION TO PSNH'S MOTION FOR REHEARING OF ORDER NO. 25,714

NOW COMES the Office of the Consumer Advocate ("OCA"), a party in this docket, and objects to Public Service Company of New Hampshire's ("PSNH") Motion for Rehearing of Order No. 25,714 dated September 10, 2014 ("Motion") pursuant to Admin. Rule Puc 203.07(f).

In support of this Objection the OCA states as follows:

1. The New Hampshire Public Utilities Commission's (PUC or Commission) Order No. 25,714 properly determined that the identified sections of PSNH Rebuttal testimony must be stricken from the record. Order No 25,714 (September 8, 2014). Pursuant to New Hampshire law and Rule Puc 203.23(d), the Commission has the authority to exclude "irrelevant, immaterial or unduly repetitious evidence." RSA 541-A:33(V).
2. PSNH has raised for the first time in its Rehearing Request that the stricken testimony meets various other filing requirements. See Motion supra. PSNH had the opportunity to raise these concerns and failed to do so in its Response Of Public Service Company of New Hampshire To OCA's Five Motions to Strike Dated August 6, 2014 (August 8, 2014). PSNH's response discussed the public interest standard and the relevance of the various portions of testimony. *Id.* The Commission rightfully relied on these arguments in making its determinations.

3. The Commission recently restated the legal grounds for rehearing as follows:

Pursuant to RSA 541:3, the Commission may grant rehearing or reconsideration when a party states good reason for such relief and demonstrates that a decision is unlawful or unreasonable. *See Rural Telephone Companies*, Order No. 25,291 (Nov. 21, 2011) at 9. Good reason may be shown by identifying specific matters that were “overlooked or mistakenly conceived” by the deciding tribunal, *see Dumais v. State*, 118 N.H. 309, 311 (1978), or by identifying new evidence that could not have been presented in the underlying proceeding, *see O’Loughlin v. N.H. Personnel Comm’n*, 117 N.H. 999, 1004 (1977) and *Hollis Telephone, Inc., Kearsarge Telephone Co., Merrimack County Telephone Co., and Wilton Telephone Co.*, Order No. 25,088 (Apr. 2, 2010) at 14. A successful motion for rehearing does not merely reassert prior arguments and request a different outcome. *See Connecticut Valley Electric Co.*, Order No.24,189, 88 NH PUC 355, 356 (2003), *Comcast Phone of New Hampshire*, Order No. 24,958 (April 21, 2009) at 6-7 and *Public Service Company of New Hampshire*, Order No. 25,168 (November 12, 2010) at 10.

DE 11-250, O r d e r N o. 25,506 (May 9, 2013).

4. There are no new facts occurring between August 8, 2014 and September 10, 2014 upon which PSNH is relying for its motion. All the arguments raised in the September 10 filing could have been raised previously.
5. Contrary to PSNH’s assertions, nothing was overlooked or mistakenly conceived in the Commission’s Order No. 25,714 (September 3, 2014). The Commission responded to the PSNH argument that the PUC has failed to define the scope of the proceeding. The Commission held:

We first reject PSNH’s argument that we have not defined the scope of this proceeding.”) PSNH asked: “Is the scope of the proceeding limited to a review of the actions PSNH took to comply with the Scrubber law ...?” PSNH Objection at 1. We have provided a broader scope for this proceeding since 2008. In *Investigation of PSNH’s Installation of Scrubber Technology*, Order No. 24,914 at 13-14 (Nov. 12, 2008), we stated: [The Scrubber Law] does, however, provide a basis for the commission to consider, in the context of a later prudence review, arguments as to whether PSNH had been prudent in proceeding with installation of scrubber technology in light of increased cost estimates and additional costs from other reasonably foreseeable regulatory requirements such as those cited by the Commercial Ratepayers, which include the Clean Air Act ... and the Clean Water Act(Emphasis added.)

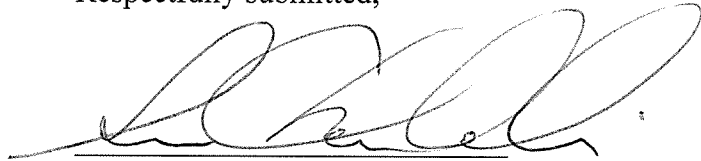
Id. at 6.

6. The Commission's Order No 25,714 supported some of PSNH's arguments and denied others. *Id.* PSNH cannot now attempt to reopen the proceeding with arguments it left out of its first objection by claiming the Commission made a mistake.

WHEREFORE, the OCA respectfully requests that this honorable Commission:

- A. Deny PSNH's Motion for Rehearing; and
- B. Grant any other such relief as it deems appropriate.

Respectfully submitted,

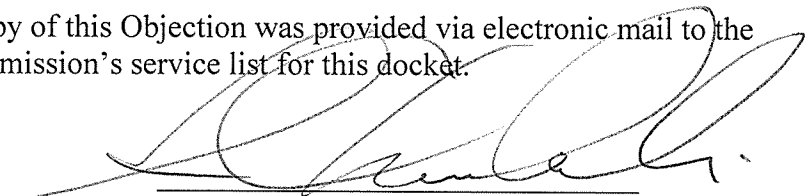


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September 16, 2014

Certificate of Service

I hereby certify that a copy of this Objection was provided via electronic mail to the individuals included on the Commission's service list for this docket.



Susan W. Chamberlin