

STATE OF NEW HAMPSHIRE

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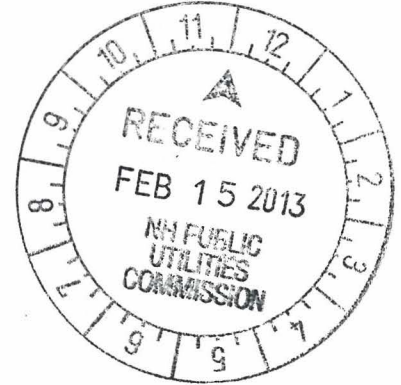
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OFFICE OF CONSUMER ADVOCATE

21 S. Fruit St., Suite 18  
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February 15, 2013

Debra A. Howland  
Executive Director  
NH Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, NH 03301



**Re: IR 13-038 Stakeholder Review of New Hampshire's Utility Assessment System**

Dear Ms. Howland,

On January 31, 2013, Commission Staff issued Information Requests in the above-captioned docket. The Office of the Consumer Advocate (OCA) files its responses below:

1. The current allocation method is based on a utility's revenues as a percent of the total revenues of all New Hampshire utilities.

(a) Do you believe that the allocation method currently specified in statute is fair and reasonable?

Yes.

(b) Why or why not?

There are likely other methods that may be fair and reasonable. However, without a thorough analysis of other methods or how these methods would impact customers we cannot determine whether the current allocation method should be changed.

(c) If not, what different method(s) of allocation would you propose and why is that method(s) more fair and reasonable?

The OCA does not have a proposal at this time.

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(d) What statutory and/or rule changes would be required to utilize the method you propose?

The OCA does not have a proposal at this time.

2. Do you believe that the allocation method currently specified in statute is legal and constitutional?

Yes.

(a) Why or why not?

The assessment statute has been in place for more than 50 years. See RSA 363-A Note: 1955.203:1. An act of the legislature is presumed constitutional. See *New Hampshire Health Care Assoc. v. Governor*, 161 N.H. 378, 385 (2011) ("In reviewing a legislative act, we presume it to be constitutional and will not declare it invalid except upon inescapable grounds."); *Petition of Southern New Hampshire Medical Center, 2011-754* Supreme Court of New Hampshire (October 30, 2012). ("This means that we will not hold a statute to be unconstitutional unless a clear and substantial conflict exists between it and the constitution.") *Id.* (quotation omitted)

(b) If not, what different method(s) of allocation would you propose?

The OCA does not have a proposal at this time.

(c) What statutory and/or rule changes would be required to utilize the method(s) you propose?

The OCA does not have a proposal at this time.

3. Do you believe that entities that are not public utilities under RSA 362:2 should be required to fund the Commission's expenses in some way? If so:

The OCA does not have a position at this time.

(a) What non-public utilities should be required to fund the expenses and why?

The OCA does not have a position at this time.

(b) What amount of the expenses should non-utilities be required to fund?

The OCA does not have a position at this time.

(c) By what mechanism(s) should the monies be collected?

The OCA does not have a position at this time.

- (d) What is the legal basis for imposing the obligation?

The OCA does not have a position at this time.

- (e) What statutory and/or rule changes would be required to implement your proposals?

The OCA does not have a proposal at this time.

4. The Commission has historically implemented the calculation of “gross utility revenue” under RSA 363-A:2 to include all of a utility’s revenues associated with operations within the State of New Hampshire, whether or not the revenues are derived from an activity that is directly regulated by the Commission. For example, Public Service Company of New Hampshire reports revenue from transmission facilities located in New Hampshire that transmit electricity generated in and/or consumed in New Hampshire, even though the rates, terms of service and safety of transmission facilities are regulated by the Federal Energy Regulatory Commission. Telephone utilities must include revenue from interstate telephone calls that originate, or are placed to a location, in New Hampshire and travel over wires in New Hampshire, even though interstate telephone calls are regulated by the Federal Communications Commission.

Please provide:

- (a) Your company’s total revenues associated with operations within New Hampshire for your fiscal years 2010, 2011, and, as soon as available, 2012. Please also state where this information may be found in publicly available sources other than reports filed with the Commission (e.g., SEC filings, FERC filings, FCC filings, publicly available annual reports, etc.).

N/A

- (b) Your company’s total revenues associated with interstate operations within New Hampshire for your fiscal years 2010, 2011 and 2012, as soon as available. Please also state where this information may be found in publicly available sources (e.g., SEC filings, FERC filings, FCC filings, annual reports, etc.).

N/A

- (c) Your company’s total revenues associated with operations regulated by the Commission for fiscal years 2010, 2011 and 2012.

N/A

- (d) Your company’s total revenues for fiscal years 2010, 2011 and 2012 associated with operations within the State of New Hampshire that are regulated wholly by a federal agency and upon which the Commission is preempted from taking any regulatory

action, including without limitation, an investigation or participation in regional or federal proceedings.

N/A

- (e) If your answer to subsection (d) is anything greater than \$0, please describe the operations upon which you base your answer, and briefly summarize your legal analysis.

N/A

- (f) Your company's total revenues for fiscal years 2010, 2011, and 2012 collected on behalf of and paid to, another entity. Please describe the related service(s) and amount of revenue related to each service. Are those revenues reflected in gross revenues as reported to the Commission?

N/A

5. As to any interstate operations of your company within New Hampshire, please state whether such operations rely to any extent on facilities or service providers whose rates, terms of service and/or safety are regulated by the Commission, and if so, identify any and all such facilities and how they relate to such operations.

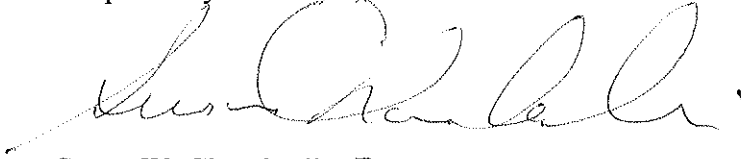
N/A

6. Please provide any further thoughts that you think may be useful in consideration of the issues raised in Docket no. DM12-276 and Commission Order No. 25,451.

Every public utility under RSA 362:2 benefits from or is affected by the regulatory authority of the Public Utility Commission and the Office of the Consumer Advocate, whether or not an individual company falls under regulatory scrutiny in a particular calendar year. PUC decisions create precedent for all utilities to follow. The PUC Rules apply to all utilities even if they are not in a current proceeding before the Commission. At times, a major event for one company – rate case, merger, or restructuring- will take up the majority of the regulatory community's attention in one year and then that attention shifts to another company's event the following year. If assessments strictly followed time allocation per calendar year, the assessment process, and resulting rate impact would be uneven and unpredictable. Funding necessary regulatory programs and staffing would be difficult to maintain from year to year. By casting a wide net and assessing a large number of utilities an assessment based on gross revenues, the current method allocates the financial burden of the regulatory assessment equitably.

Thank you for the opportunity to respond.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Susan W. Chamberlin".

Susan W. Chamberlin, Esq.  
Consumer Advocate

cc: Service List  
Enclosures