

**THE STATE OF NEW HAMPSHIRE  
BEFORE THE PUBLIC UTILITIES COMMISSION**

**DE 13-060**

**PNE ENERGY SUPPLY, LLC**

**Investigation and Show Cause Hearing on Penalties and Suspension or Revocation of  
Aggregator and CEPS Registrations and Order that PNE Temporarily Cease Enrolling  
New Customers**

**AFFIDAVIT OF COMPLIANCE**

I, Owen Graham, having been duly sworn, state and affirm as follows:

1. I am an attorney at Hinckley, Allen & Snyder.
2. Hinckley, Allen & Snyder represents PNE Energy Supply, LLC (“PNE”), in the above-captioned matter.
3. On December 7, 2020, PNE filed a motion to modify the form of financial surety it is required to maintain as a registered competitive electric power supplier (CEPS).
4. On January 7, 2021, Commission Staff filed a memorandum recommending approval of PNE’s motion.
5. The Commission issued its order *nisi* (the “Order”) on January 26, 2021, granting PNE’s motion. As part of the Order, the Commission required that PNE “cause a copy of [the Order] to be published once in a statewide newspaper of general circulation . . . no later than February 5, 2021.” Order at 4.
6. In compliance with the Order, PNE caused a copy of the Commission’s Order to be published in the Manchester Union Leader – a newspaper with statewide circulation – on January 29, 2021.
7. A true and accurate copy of the notice, as simultaneously published on the New Hampshire Public Notices website on January 29, 2021 is attached hereto as Exhibit 1.

Signed and sworn under the pains and penalties of perjury this 9<sup>th</sup> day of February 2021.

/s/ Owen R. Graham  
Owen R. Graham, Esq.

STATE OF NEW HAMPSHIRE  
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me on the above date by Owen Graham.

/s/ Susan M. Comer  
Notary Public  
My Commission Expires: 7/19/2022

**CERTIFICATE OF SERVICE**

I hereby certify that on the above date I have forwarded a copy of the foregoing to the Office of Consumer Advocate via electronic mail, and persons listed on the service list via electronic mail, and U.S. mail for those unable to be served electronically.

/s/ Owen R. Graham  
Owen R. Graham, Esq.

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# **EXHIBIT 1**

**STATE OF NEW HAMPSHIRE PUBLIC UTILITIES COMMISSIO**

STATE OF NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION DE 13-060 PNE ENERGY SUPPLY, LLC Investigation and Show Cause Proceeding Order Nisi Approving Change in Form of Financial Security O R D E R N O. 26,445 January 26, 2021 In this order, the Commission grants PNE Energy Supply, LLC's motion to change its form of surety from moneys held in escrow to a surety bond. This order is issued on a nisi basis to ensure that interested persons receive notice of the decision and have the opportunity to submit comments or request a hearing before the order becomes effective. I. PROCEDURAL HISTORY On December 7, 2020, PNE Energy Supply, LLC (PNE) filed a motion to modify the form of financial security it is required to maintain as a registered competitive electric power supplier (CEPS). In its motion, PNE stated that it currently maintains an escrow account in the amount of \$100,000 pursuant to the settlement agreement approved in Order No. 25,492 (April 13, 2013), as modified by Order No. 25,667 (May 16, 2014). PNE requested authorization to further modify the settlement agreement financial security requirement, allowing it to change from maintaining funds in escrow to providing a surety bond, consistent with the requirements of the Commission's rules applicable to CEPS. See New Hampshire Code of Administrative Rules, Puc 2003.03. No objection to PNE's motion was filed. On January 7, 2021, Commission Staff (Staff) filed a memorandum (Staff Memorandum) recommending approval of PNE's motion. PNE's motion, the Staff Memorandum, as well as previous and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted at <https://www.puc.nh.gov/Regulatory/Docketbk/2013/13-060.html>. II. POSITION OF PNE AND RECOMMENDATION OF STAFF A. PNE In its motion, PNE stated that, in February 2013, Staff initiated show cause proceedings following a financial assurance default by PNE. Motion at 1. Pursuant to the terms of a settlement agreement resolving related issues, PNE agreed to maintain an escrow account in the minimum amount of \$200,000 to satisfy the financial security requirements of the Commission's CEPS rules then in effect. Id. In 2014, PNE requested that the Commission approve a reduction in the amount of the required escrowed funds from \$200,000 to \$100,000, and that request was granted in Order No. 25,667 (May 16, 2014). Id. In support of its current request, PNE asserted that, since 2014, no PNE customer has submitted a complaint to the Commission regarding its provision of service. Id. at 2. PNE further stated that it has not provided service to residential customers in five years, and does not currently provide service to commercial customers. Id. According to PNE, the ongoing escrow requirement is burdensome and costly, without providing a commensurate benefit to the public. Id. PNE noted that either an irrevocable standby letter of credit or a surety bond is permissible under Puc 2003.03, and such an alternative form of financial security would be less onerous while still protecting the public interest. Id. B. Staff In connection with its evaluation of PNE's motion, Staff reviewed Commission records relating to PNE. Staff Memorandum at 1. Staff stated the records indicate that PNE reported residential and commercial sales to customers through the fourth quarter of 2017. Id. Staff maintained that the Consumer Services Division was contacted by customers with questions or concerns regarding PNE services in 2016 and 2017. Id. According to Staff, PNE responded promptly to the customer contacts forwarded to it, and either resolved the issues in the customer's favor or properly assessed early termination fees. Id. Staff noted that the records do not support the timeline representations made by PNE in its motion; nonetheless, three years have passed without a customer contact regarding PNE, and PNE's responses to the 2016 and 2017 contacts raised no concerns for Staff. Id. at 2. Staff verified PNE's history of satisfactory responses to customer contacts since entering into the settlement agreement, as well as the passage of time since the settlement agreement was executed. Staff confirmed it does not currently have the concerns that it had when the settlement agreement was approved. Id. Accordingly, Staff recommended that the Commission grant PNE's motion. Id. III. COMMISSION ANALYSIS We have reviewed PNE's motion and the Staff Memorandum. We find that allowing PNE's form of CEPS financial security to be modified from monies held in escrow to a surety bond is reasonable and appropriate at this time. We further find that modification of the relevant term of the settlement agreement, and of the prior orders approving and modifying the settlement agreement, are in the public interest and should be approved. Under RSA 365:28, the Commission has the authority, "after notice and hearing, to alter, amend, suspend, annul, set aside, or otherwise modify any order made by it." We modify Order No. 25,492 and Order No. 25,667 to authorize PNE to change the form of financial security it provides as a registered CEPS, by issuing this order on a nisi basis to ensure that all interested persons receive notice of the decision and have the opportunity to submit comments or request a hearing before the order becomes effective. Based upon the foregoing, it is hereby ORDERED NISI, that PNE's motion is GRANTED, and its financial security obligations as a registered competitive electric power supplier may be satisfied by providing a surety bond or other form of financial security instrument in the appropriate amount, as required under N.H. Admin. R., Puc 2003.03; and it is FURTHER ORDERED, that PNE shall cause a copy of this order nisi to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than February 5, 2021, and to be documented by affidavit filed with the Commission on or before February 23, 2021; and it is FURTHER ORDERED, that the Executive Director shall cause a copy of this order nisi to be published on the Commission's website within one business day; and it is FURTHER ORDERED, that all persons interested in responding to this order nisi be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than February 12, 2021, for the Commission's consideration; and it is FURTHER ORDERED, that any party interested in responding to such comments or request for a hearing shall do so no later than February 19, 2021; and it is FURTHER ORDERED, that this order nisi shall be effective on February 26, 2021, unless PNE fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date. By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of January, 2021. Dianne Martin Chairwoman Kathryn M. Bailey Commissioner Attested by: Debra A. Howland Executive Director

Appeared in: ***The Union Leader*** on Friday, 01/29/2021

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