

THE STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

DE 15-491

PNE ENERGY SUPPLY, LLC, et al.

v.

PSNH D/B/A EVERSOURCE ENERGY

CORRECTED PAGE 4 OF
BRIEF OF PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
D/B/A EVERSOURCE ENERGY

Public Service Company of New Hampshire, d/b/a Eversource Energy (“PSNH”),
submits this corrected Page 4 of its Brief filed on April 29, 2016.

By secretarial letter dated February 8, 2013, the Commission conditionally approved the waiver of notice based upon that representation, and specifically noted the representation by PNE and FairPoint of their intent to “fulfill all other requirements of the rule,” *i.e.*, Puc 2004(1)(5). February 8, 2013 Secretarial Letter in Docket No. DE 13-049 at 1. The Commission also included an express condition on the grant of the waiver:

As an additional condition to the waiver, the Commission requires FairPoint Energy to make a filing within 10 business days of this letter demonstrating that the surety provided under Puc 2003.03 is adequate given the additional customer base assumed in the PSA.

Id. at 2. FairPoint never made that filing. Based on FairPoint’s failure to make the filing required by the Commission when it granted the waiver request, the waiver never became effective and FairPoint had no right to become the supplier for any PNE customer.¹

Now, in this matter, **Plaintiffs will contend that** PSNH acted improperly by failing to perform thousands of off-cycle meter readings that Plaintiffs represented to the Commission they did not need and would not seek. PSNH had no duty under the applicable tariff and regulations to provide such off-cycle readings and had no obligation to undertake an act that Plaintiffs had no right to request. Likewise, PSNH was entitled to replace FairPoint’s EDIs to effectuate the placing of PNE’s customers onto default service. Under the FERC Tariff, PSNH was required to take load-responsibility for PNE’s customers. At that point, PSNH became the mandated supplier for these customers as a matter of law. Hence, under PSNH’s retail tariff, FairPoint’s EDIs were no longer valid. And most important, just a day after PNE was prohibited from holding load in the wholesale marketplace, this Commission specifically prevented the transfer of customers from PNE to FairPoint unless notice was given to those customers and they affirmatively “opted-in” to

¹ Nevertheless, approximately 1200 customers were transferred to FairPoint prior to PNE’s decision to default at ISO-NE. Comp. ¶ 77.

Respectfully submitted,

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE,
d/b/a EVERSOURCE ENERGY

By its attorneys,

McLANE MIDDLETON, PROFESSIONAL
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Dated: May 3, 2016

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PUBLIC SERVICE COMPANY OF NEW
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Certificate of Service

I certify that I have served the foregoing Memorandum by sending copies thereof by email to all counsel of record.

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