

THE STATE OF NEW HAMPSHIRE  
before the  
PUBLIC UTILITIES COMMISSION

Public Service Company of New Hampshire's  
Petition for Approval Power Purchase Agreements with  
Lempster Wind, L.L.C.

Docket No. DE 08-077

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE'S  
RESPONSE TO FREEDOM ENERGY PARTNERS' CLOSING STATEMENT

At the hearing on February 5, 2009, Freedom Partners, LLC requested the opportunity to submit closing arguments. The undersigned counsel for Public Service Company of New Hampshire (PSNH) requested permission to respond. PSNH files these comments in response to the Closing Arguments filed by Freedom Energy Partners d/b/a/ Freedom Energy ("Freedom Partners) on February 12, 2009.

**A. Freedom Partners' contention that PSNH has no authority to enter into the Agreements under any circumstances without Commission authorization.** This argument misstates the law, and Freedom Partners provides no support for this bold assertion. The statute could not be more clear that RSA 362-F:9 is entirely permissive ("the commission *may* authorize"). The statute provides a modest incentive for utilities to enter into long term agreements to purchase energy and/or renewable energy certificates (REC's). Presumably this incentive to obtain a prudence finding from the Commission before entering into a long term agreement will encourage electric utilities to enter long term contracts with REC producers as opposed to simply making market purchases. The long term contracts will provide a steady source of revenue which may allow easier access to financing for the renewable energy project developer, and thus encourage renewable resource development. Except for contracts under which a utility proposes to sell, lease or otherwise transfer the franchise, works or system of a utility (RSA 374:30), utilities are free to enter into virtually any type of contract. Certain contracts with affiliates (RSA 366) and contracts for the

purchase of transmission capacity, generation capacity or energy (RSA 374:57) must be filed with the Commission, but need not be pre-approved. If the utility seeks recovery of the costs incurred under the contract, the Commission has ample authority to disallow those costs.

**B. Freedom Partners' contention that REC's purchased by PSNH pursuant to RSA 362-F:9,I may be used only to meet reasonably projected renewable portfolio requirements in New Hampshire.** This statement is also false and without support. If Freedom Partners had been present for the redirect examination of Mr. Wicker, counsel would have heard Mr. Wicker testify that the RECs to be acquired from Lempster Wind are necessary for PSNH's reasonably projected renewable portfolio requirements. PSNH currently has the potential to acquire or produce Class I RECs from additional capacity installed at Smith Hydro, production from Schiller Unit 5 and from Lempster Wind. PSNH does not know how many customers will be convinced by Freedom Logistics to become members of NEPOOL and self-supply or how many customers will switch to competitive suppliers. In some years production and acquisition of RECs could exceed the sales of electricity to end users because sales to ends users fluctuate due to migration. PSNH will be judged on whether it acted reasonably and prudently in managing its generation resources and in acquiring RECs to satisfy its Renewable Portfolio Standard requirements under RSA 362-F.

**C. Freedom Partners' contention that during 2009, PSNH's customers are likely to pay higher bills if the Commission authorizes PSNH to enter into the Lempster Agreements.** There is nothing in the record to support this assertion. Counsel for Freedom Partners failed to mark as exhibits the documents he used in cross examination of Mr. Wicker, and the documents were not substantiated by sworn testimony. The test for the Commission is not whether the next six months will work under the Lempster Agreements, but whether the contract as a whole is in the public good, as judged by the standards for public interest found in RSA 362-F:9 II. Freedom Partners failed to address these standards on the record or in its closing remarks.

**D. Freedom Partners' contention that the disparity in treatment of transmission costs is a very substantial impediment for a renewable resource to enter into an agreement with any entity other than PSNH.**

PSNH disagrees with the assertion that Lempster is at an economic/competitive disadvantage if it sells its output to an entity other than the host utility, PSNH. The Lempster generation project connects to the New England, Administered Transmission System at the PSNH-owned, North Road sub-station, which is a Pooled Transmission Facility (PTF) substation. Lempster is not required to take local transmission service under ISO-NE OATT Schedule 21 because it connects to PTF assets. All generators in New England that connect to the Administered Transmission System at the PTF asset level can sell/deliver their output to any load or entity in New England without paying for additional transmission service. Indeed, New England's "Through and Out" transmission service rate to other open access, competitive markets (including NY and PJM, but not Canadian markets) have been set at zero since the establishment of an RTO in New England. Any generator connected to the New England transmission system at PTF (as Lempster is) can sell to any non-Canadian entity or load without paying a transmission fee (either local or regional). Lempster has no reason, based upon transmission service economics, to want to sell to PSNH as opposed to any other market participant.

**E. Freedom Partners' statement that in order to negotiate with PSNH, there should be no litmus tests and every developer should be treated objectively.**

PSNH provided no impediments to Lempster Wind, LLC interconnecting and developing its site. There is no evidence that sale of capacity, energy and RECs was a precondition to interconnection to the PSNH system. PSNH has a duty under state law to provide access to its distribution and transmission system (RSA 374-F:3 IV) and has a similar duty under its FERC open access tariff. PSNH does not know what "litmus test" is being referred to by Freedom Partners as no testimony or evidence of such a test was presented on the

record. PSNH has a history of over twenty years of dealing fairly and evenly with third party developers of supplemental energy resources.

February 19 2009  
Date

Respectfully submitted,  
Public Service Company of New Hampshire  
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#### CERTIFICATE OF SERVICE

I hereby certify that, on the date written below, I caused the attached Motion for Protective Order to be served pursuant to N.H. Code Admin. Rule Puc §203.11.

February 12 2009  
Date

Gerald M. Eaton  
Gerald M. Eaton