

STATE OF NEW HAMPSHIRE

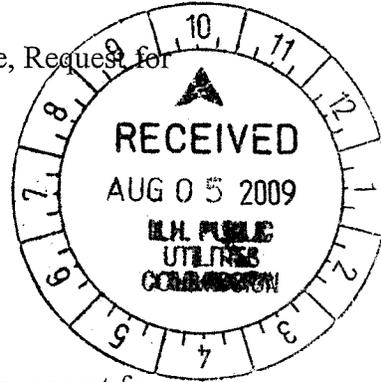
Inter-Department Communication

DATE: August 5, 2009
AT (OFFICE): NHPUC

FROM: *SEM*
Steven E. Mullen
Assistant Director – Electric Division

SUBJECT: DE 09-123 – Public Service Company of New Hampshire, Request for Waiver of Annual Compliance Filing under Puc 2106.03

TO: Commissioners
Debra A. Howland, Executive Director



On July 1, 2009, Public Service Company of New Hampshire (PSNH) filed a request for a waiver, pursuant to Puc 201.05, of the annual compliance certification requirements in N.H. Code Admin. Rules Puc 2106.03(a) related to its affiliate transaction rules compliance plan. In its filing, PSNH stated that there are no longer any competitive energy suppliers in the affiliated group of companies under the Northeast Utilities (NU) umbrella. PSNH also stated that it continues to adhere to the requirements of the affiliate transaction rules governing confidentiality of competitive supplier information provided in Puc 2104.03. Further, PSNH said that it and the other NU companies focus much of their attention and have been training on the FERC Code of Conduct, FERC Order 2004. While not identical to the New Hampshire PUC's Chapter 2100 rules, PSNH said the FERC rules emphasize analogous policies. According to PSNH,

There appears to be no continuing purpose to the annual compliance plan filing unless and until PSNH or NU returns to the competitive supply business. The FERC Code of Conduct is actively followed and reinforced with regular training so that NU's transmission supply function does not provide any unfair advantage to other segments of NU's operating companies. (July 1, 2009 filing at 2)

After reviewing PSNH's waiver request as well as its filings in past years, Staff's view is that a waiver of the requirements of Puc 2106.03(a) is not necessary or appropriate. Puc 2106.03(a) reads as follows:

(a) No later than July 1 in each year subsequent to filing its initial compliance plan, a distribution company shall:

(1) Certify that its compliance plan continues to meet the requirements of Puc 2106.01(a) and Puc 2106.02(a)(2); or

- (2) If necessary, file an updated compliance plan which meets the requirements thereof.

Review of PSNH's prior year filings indicates that each year PSNH has filed a complete copy of its affiliate transaction rules compliance plan, regardless of whether or not there have been any changes. Pursuant to 2106.03(a)(2), an updated compliance plan only needs to be filed "if necessary," i.e., if there have been any changes. Otherwise, the only necessary annual filing requirement is the certification required by 2106.03 (a)(1).

Staff sees no reason for the Commission to waive the requirements of 2106.03(a) as a full compliance plan is only required in those years in which there have been changes to the plan. In that light, the annual filing requirements are not burdensome. As for PSNH's statement that there are no longer any competitive energy suppliers in the NU family of companies, Staff respectfully points out that the definition of "affiliate" contained in Puc 2102.01 (referencing NH RSA 366:1, II) expands beyond competitive energy suppliers.

Please let me know if you have any questions or would like to discuss this issue further.

cc: Edward Damon
Gerald M. Eaton, Senior Counsel, PSNH