

THE STATE OF NEW HAMPSHIRE

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May 13, 2010

Gordon Pozza
Vice President – Competitive Strategies
Metromedia Energy, Inc.
281 Orchard Drive
Mahwah, NJ 07430

Re: DM 10-046, Metromedia Energy, Inc.
Renewal Registration as a Competitive Natural Gas Supplier

Dear Mr. Pozza:

On March 8, 2010, Metromedia Energy, Inc. (Metromedia) filed with the New Hampshire Public Utilities Commission (Commission) an application for renewal of registration as a competitive natural gas supplier (CNGS), together with a check in the amount of \$250.00. On April 9, 2010, Metromedia was granted conditional approval as a CNGS subject to the submission of surety bond that complied with requests made by Commission Staff. On April 26, 2010, Metromedia amended its application by filing with the Commission a Bond Continuance Certificate for a renewal of its \$50,000 surety bond, along with a rider that resolved the issues raised by Staff's requests.

The Commission has reviewed Metromedia's application for renewal registration as a CNGS, as amended. Its amended application meets the requirements for registration pursuant to N.H. Code Admin. Rules Puc 3003.01. Therefore, the Commission will approve Metromedia as a CNGS in the State of New Hampshire, with the renewal registration to be effective April 7, 2010, which coincides with the expiration of its prior registration. Metromedia will be required to keep its surety bond in full force during the two year term of this registration.

Included with the March 8, 2010 renewal application was a letter from Metromedia requesting a waiver of N.H. Code Admin. Rules Puc 3003.01 (d), which requires renewal applications to be filed at least 60 days prior to the expiration of the current registration. Metromedia explained that there had been significant changes in its capacity, delivery and storage arrangements since its prior registration necessitating significant changes in its documents. According to Metromedia, those changes, coupled with staff coordination problems, delayed the filing beyond the 60-day window.

May 13, 2010

- 2 -

Under N.H. Code Admin. Rules Puc 201.05, the Commission may waive N.H. Code Admin. Rules Puc 3003.01 (b)(2)e if it finds the waiver serves the public interest and the waiver does not disrupt the orderly and efficient resolution of matters before the Commission. Determination of the public interest requires consideration of whether: (1) compliance with the rule would be onerous or inapplicable given the circumstances of Metromedia; or (2) the purpose of the rule is satisfied by the alternative method proposed. In this instance although Metromedia filed its renewal registration fewer than 60 days prior to the expiration of its current registration, Staff was able to timely complete its review of the renewal application. Therefore, the delay in filing did not disrupt the orderly and efficient resolution of this matter. Moreover, as the timeframe for filing has already passed, compliance would be onerous or inapplicable in this instance. Therefore, the waiver will be granted. We caution Metromedia, however, that Staff's ability to timely review a late-filed application is not to be assumed, and Metromedia shall be expected to abide by the Commission's rules in future filings.

Along with its renewal application, Metromedia also filed with the Commission a motion for confidential treatment of information that was included as Exhibit E of its renewal application. Exhibit E is a package of audited financial information including a consolidated financial report for 2008, and an independent auditor's report. Metromedia states that it is a privately held corporation and its financial statements are not made available to the general public. Moreover, it contends that disclosure of its financial statements would put it at a competitive disadvantage because competitors could use the information for pricing and product strategies thus impacting its ability to compete effectively.

Under RSA 91-A:5, IV records of "confidential, commercial or financial information" are exempted from disclosure, and the New Hampshire Supreme Court has supplied a balancing test for determining whether certain documents meet this designation. *See, e.g., Lambert v. Belknap County Convention*, 157 N.H. 375, 382-83 (2008). Upon reviewing the information, the Commission concludes that there would be an invasion of Metromedia's privacy interest in disclosing the information and that Metromedia's privacy interest is not outweighed by any public interest in disclosure. Further, disclosure would do nothing to reveal the workings of the Commission. *See Union Leader Corp. v. N.H. Housing Fin. Auth.*, 142 N.H. 540, 554-55 (1997). Accordingly, we grant Metromedia's motion.

Additionally, please bear in mind that pursuant to Puc 3003.01 (d), each CNGS applicant shall re-register with the Commission every 2 years by filing with the Commission an application for renewal. Each CNGS applicant shall file an application for renewal at least 60 days prior to the expiration of its current registration. In the case of Metromedia, this approved registration will expire on April 7, 2012 with the renewal application due on or before February 7, 2012. Instructions on how to properly file a renewal registration application are located on the Commission website at <http://www.puc.nh.gov/Gas-Steam/CNGS-Aggregator%20application%20instructions.pdf>.

N.H. Code Admin. Rules Puc 3000 – Competitive Natural Gas Marketer Rules, can be found on our website at <http://www.puc.nh.gov/Regulatory/Rules/PUC3000.pdf>. If you have

May 13, 2010

- 3 -

any questions regarding these provisions, please contact the Commission. Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Debra A. Howland".

Debra A. Howland
Executive Director

Encl.