

**THE STATE OF NEW HAMPSHIRE**  
**before the**  
**PUBLIC UTILITIES COMMISSION**

**Public Service Company of New Hampshire**  
**Petition for Alternative Default Energy Service Rate**

**Docket DE 11-216**

**Public Service Company of New Hampshire's Objection to Freedom Logistics, LLC**  
**d/b/a Freedom Energy Logistics and Halifax-American Energy Company, LLC's**  
**Joint Petition for Intervention**

Public Service Company of New Hampshire ("PSNH" or the "Company") hereby objects to the Joint Petition for Intervention by Freedom Logistics, LLC d/b/a Freedom Energy Logistics ("FEL") and Halifax-American Energy Company, LLC ("HAEC") in this proceeding. In support of this objection, PSNH states as follows:

1. On September 23, 2011, PSNH filed with the Commission a proposal for an alternative default energy service rate in response to the Commission's directive in Order No. 25,256 which was issued in Docket DE 10-160, Investigation of the Effects of Customer Migration. FEL, an aggregator, and HAEC, a competitive electric supplier, now seek to intervene in this docket on the basis that "PSNH's proposal in this proposal [sic] will have an adverse impact on competitive electricity markets." Joint Petition for Intervention at 2. The Commission should deny the Joint Petition on two grounds: (i) neither FEL nor HAEC have demonstrated standing to intervene pursuant to RSA 541-A:32, and (ii) contrary to the requirements of RSA Chapter 541 and Rule Puc 203.33, the Joint Petition clearly states the Petitioners' attempt to challenge the Commission's Order No. 25,256 – an order from another proceeding (in which both FEL and HAEC were party-intervenors) which is final and unappealable.

2. RSA 541-A:32, I provides that a petition to intervene should be granted only where “[t]he petition states facts demonstrating that the petitioner’s rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding...” The New Hampshire Supreme Court has held that in order to intervene, a petitioner must demonstrate an “injury in fact.” Appeal of Stonyfield Farm, 159 N.H. 227, 231 (2009), citing Appeal of Richard, 134 N.H. 148, 154, cert. denied 502 U.S. 899 (1991). The Court has made clear that “increased competition with businesses....is insufficient” to meet that standard. Nautilus of Exeter v. Town of Exeter, 139 N.H. 450, 452 (1995). See also Weeks Restaurant Corp. v. City of Dover, 199 N.H. 541, 545 (1979) quoting Valley Bank v. State, 115 N.H. 151, 154 (1975)(“.... injury resulting from competition is rarely classified as a legal harm but rather is deemed a natural risk in our free enterprise economy.”). Merely being “interested” in the outcome of a proceeding has been held insufficient to meet the statutory requirement for the granting of intervenor status. Clean Power Development, Docket No. DE 09-067, Order No. 25,075 (February 24, 2010).

3. FEL and HAEC’s intervention request is based entirely on their status as an aggregator and competitive electric supplier, respectively, who would be potentially competing with PSNH for customers for energy service. This alleged competitive harm (which is not even supported by any factual averments) is not a legally sufficient basis to intervene under RSA 541-A:32 or existing case law. See id.

4. Further, to the extent that FEL and HAEC seek to intervene on the basis that they disagree with PSNH’s development of an alternative default energy service rate, it

is too late for FEL and HAEC to raise those issues. FEL and HAEC's Joint Petition essentially admits this in its Paragraph 2:

PSNH made the filing pursuant to Commission Order No. 25, 526 (July 26, 2011) in Docket No. DE 10-160, Investigation into the Effects of Customer Migration. In that Order PSNH was directed to 'develop and file a specific tariff proposal... to address the current circumstance when the default ES rate is greater than the market rate, by offering a rate that exceeds its marginal cost of default service but is less than the average cost.'

5. As FEL and HAEC admit, "PSNH's proposal in this proposal [sic]" which FEL and HAEC claim "will have an adverse impact on competitive electricity markets," was "made...pursuant to Commission Order No. 25.256...." FEL and HAEC were full party intervenors in Docket DE 10-160 yet chose not to move for rehearing of Order No. 25,256 on the issue of whether PSNH ought to propose "offering a rate that exceeds its marginal cost of default service, but is less than the average cost." Order No. 25,256 at 33. FEL and HAEC seek to ignore the requirements of RSA Chapter 541 and Rule Puc 203.33 and raise an untimely challenge to the Commission's July Order to support their claim for intervenor status. The Commission should not allow the mere participation in Docket DE 10-160 to be a basis for granting intervention in this case.

5. For the reasons above, PSNH requests that the Commission deny FEL and HAEC's Joint Petition for Intervention.

WHEREFORE, PSNH respectfully requests that the Commission:

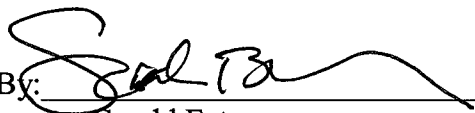
- A. Deny FEL and HAEC's Joint Petition for Intervention; and
- B. Grant such other relief as is just and equitable.

Respectfully submitted,

Public Service Company of New Hampshire

By Its Attorneys

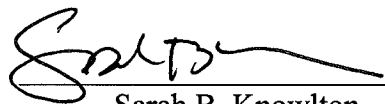
Dated: October 14, 2011

By: 

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Certificate of Service

I hereby certify that a copy of this Objection to Joint Petition for Intervention has been served electronically on the persons on the Commission's service list this 14th day of October, 2011.

  
Sarah B. Knowlton