



**Public Service
of New Hampshire**

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The Northeast Utilities System

Christopher J. Allwarden
Senior Counsel

September 22, 2009

Thomas S. Burack, Esq., Chairman
New Hampshire Site Evaluation Committee
New Hampshire Department of Environmental Services
29 Hazen Drive
Concord, NH 03301

Re: SEC Docket 2009-1 Merrimack Station

Dear Chairman Burack:

Public Service Company of New Hampshire ("PSNH") has received a copy of a letter from Peter Bonanno dated September 21, 2009, filed with the New Hampshire Site Evaluation Committee ("SEC") in the above docket, in which Mr. Bonanno requests counsel from the New Hampshire Attorney General's Office be appointed for himself and his fellow petitioners. Mr. Bonanno claims an entitlement to such appointment of counsel under RSA 162-H:9. PSNH respectfully objects to this request for the following reasons.

First, the request is asking the SEC to exercise authority which it does not have. The SEC has no authority to appoint counsel for the public from the Attorney General's Office. Pursuant to law, that authority belongs to the Attorney General. RSA 162-H:9, I, specifies that the Attorney General shall appoint an assistant attorney general as counsel to the public, once notified that an application for a certificate of site and facility has been filed with the SEC. Similarly, the SEC's administrative rules recognize that authority to appoint an assistant attorney general as counsel to the public resides with the Attorney General. *See* Site 103.06.

Second, the request evidences a clearly mistaken understanding of when and under what circumstances counsel from the Attorney General's Office is to be appointed as counsel for the public in a proceeding before the SEC. Under RSA 162-H:9, I, counsel for the public is to be appointed by the Attorney General upon notification that "an application for a certificate has been filed with the committee in accordance with RSA 162-H:7." That statute specifies the requirements for the filing with the SEC of an application for a certificate of site and facility to authorize the applicant to proceed with the construction and operation of a facility subject to the SEC's jurisdiction. The overall

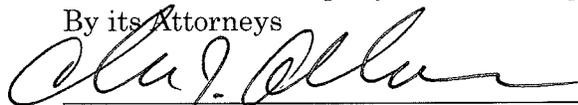
statutory scheme contemplates the involvement of an assistant attorney general, appointed by the Attorney General, as counsel for the public in connection with the hearing and determination of such an application. While there are a number of proceedings which may be held before the SEC, by law the only proceeding in which counsel for the public is required to be appointed and involved is an application for a certificate of site and facility. There has been no application for a certificate of site and facility filed in this docket, and therefore no lawful basis upon which to invoke the involvement of a representative of the Attorney General's Office under RSA 162-H:9 in this matter.

Finally, neither RSA 162-H:9 nor the SEC's rules allow for the appointment of counsel from the Attorney General's Office to represent a specific petitioner or group of petitioners, as requested by Mr. Bonanno. Although styled as a "Motion for Rehearing & Petition for Review", the filing by Mr. Bonanno and others amounts to nothing more than a request to the SEC to reconsider its August 10, 2009, decision and order on the motion for declaratory ruling originally filed by the Conservation Law Foundation and the other moving parties.¹ There is no legal authority for the appointment of a representative of the Attorney General's Office to represent the interests of any person filing a motion for a rehearing of an SEC order or decision.

Accordingly, PSNH objects to Mr. Bonanno's request for appointment of counsel from the Attorney General's Office. All parties on the service list, and the Attorney General's Office, are being served with a copy of this letter. Thank you.

Very truly yours,

Public Service Company of New Hampshire
By its Attorneys



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and

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cc: Service List, SEC Docket 2009-01
Office of the Attorney General

¹ The prayer for relief in the September 9, 2009, Bonanno filing states: "Therefore, we ask the SEC to reconsider its August 10 Order and review the Scrubber Project."