

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

Docket No. 2008-0897

APPEAL OF STONYFIELD FARM, INC., H & L INSTRUMENTS, LLC, AND  
GREAT AMERICAN DINING, INC. UNDER RSA 541:6 FROM ORDER OF  
PUBLIC UTILITIES COMMISSION

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE'S**  
**MOTION TO STRIKE AMICUS CURIAE BRIEF**

NOW COMES Public Service Company of New Hampshire ("PSNH"), by and through its attorneys, McLane, Graf, Raulerson & Middleton, Professional Association, and pursuant to New Hampshire Supreme Court Rules 16 and 21 moves to strike the *Amicus Curiae* Brief filed by the Conservation Law Foundation, Campaign for Ratepayers' Rights, Clean Water Action, Resident's Environmental Action Committee for Health, New Hampshire Sierra Club, and Union of Concerned Scientists (the "*Amici* Brief"). In support of this Motion, PSNH states as follows:

1. The *Amici* Brief does not address the issues on appeal in this case, but instead impermissibly seeks to use this appeal as a vehicle to present extra record information, funded in substantial part by the Appellants in this case, and to advocate for the shut down of PSNH's Merrimack Station generating plant.
2. The *Amici* Brief presents issues well beyond the merits of this case, contains arguments which were not preserved for appeal and introduces evidence that was not part of the record of the underlying proceedings before the Public Utilities Commission.

3. Accordingly, the *Amici* Brief violates both New Hampshire law and Supreme Court Rules, and, therefore, this Court should strike the *Amici* Brief.

4. In addition, because the *Amici* Brief does not address any of the issues on appeal in this case, their request for oral argument should be denied.

5. The basis for this Motion is set forth more fully in the accompanying Memorandum of Law and the accompanying affidavit of Robert A. Bersak, Esquire.

6. Due to the dispositive nature of the Motion to Strike, PSNH has not sought assent pursuant to Supreme Court Rule 21(5).

WHEREFORE, Public Service Company of New Hampshire respectfully requests this Honorable Court:

- A. Strike the Brief of *Amici Curiae* Conservation Law Foundation, Campaign for Ratepayers' Rights, Clean Water Action, Resident's Environmental Action Committee for Health, New Hampshire Sierra Club, and Union of Concerned Scientists;
- B. Deny their request to participate at oral argument; and
- C. Grant such other and further relief as the Court deems just and equitable.

Respectfully submitted,

PUBLIC SERVICE COMPANY  
OF NEW HAMPSHIRE

By Its Attorneys,

McLANE, GRAF, RAULERSON & MIDDLETON,  
PROFESSIONAL ASSOCIATION

Date: 3/31/09

By: Mark C. Rouvalis

Wilbur A. Glahn, III, NH Bar # 937

Mark C. Rouvalis, NH Bar # 6565

Steven J. Dutton, NH Bar # 17101

900 Elm Street, P.O. Box 326

Manchester, New Hampshire 03105

Telephone (603) 625-6464

**Certificate of Service**

I hereby certify that on March 31, 2009, I served the foregoing Motion to Strike *Amicus Curiae* Brief by mailing by first class mail, postage prepaid, copies and notice thereof to those listed on the attached service list.

Mark C. Rouvalis  
Mark C. Rouvalis

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**SERVICE LIST**

Edward A. Haffer, Esq. Sheehan, Phinney, Bass & Green P. O. Box 3701 1000 Elm Street Manchester, NH 03105-3701	Meredith Hatfield, Esq. Office of Consumer Advocate 21 South Fruit Street, Suite 18 Concord, NH 03301
Melissa Hoffer, Esq. Conservation Law Foundation 27 North Main Street Concord, NH 03301	Anne Ross, General Counsel NH PUC 21 S. Fruit Street, Suite 10 Concord, NH 03301-2429
Office of Attorney General 33 Capitol Street Concord, NH 03301-6397	Douglas L. Patch, Esq. Orr & Reno, P.A. P. O. Box 3550 One Eagle Square Concord, NH 03301-3550
Robert A. Backus, Esq. Backus, Myer and Solomon P. O. Box 516 Manchester, NH 03105	Arthur B. Cunningham, Esq. P. O. Box 511 Hopkinton, NH 03229
Ronald J. Lajoie, Esq. Wadleigh, Starr & Peters, PLLC 95 Market Street Manchester, NH 03101	