

**THE STATE OF NEW HAMPSHIRE
BEFORE THE PUBLIC UTILITIES COMMISSION**

**REBUTTAL TESTIMONY OF
ROBERT A. BAUMANN AND STEPHEN R. HALL**

CUSTOMER MIGRATION

Docket No. DE 10-160

1 **Q. Please state your names, positions and business address.**

2 A. My name is Robert A. Baumann. My business address is 107 Selden Street, Berlin,
3 Connecticut. I am Director, Revenue Regulation & Load Resources for Northeast
4 Utilities Service Company (“NUSCO”). NUSCO provides centralized services to the
5 Northeast Utilities (“NU”) operating subsidiaries, including Public Service Company of
6 New Hampshire (“PSNH”), The Connecticut Light and Power Company, Yankee Gas
7 Services Company and Western Massachusetts Electric Company.

8 My name is Stephen R. Hall. My business address is PSNH Energy Park, 780 North
9 Commercial Street, Manchester, New Hampshire. I am Rate and Regulatory Services
10 Manager for Public Service Company of New Hampshire.

11 **Q. Have you previously testified before the Commission?**

12 A. Yes, we have both testified on numerous occasions before the Commission.

13 **Q. What is the purpose of your testimony?**

14 A. The purpose of our testimony is to provide comments on and/or rebuttal to the
15 testimonies of Micheal E. Hachey of TransCanada Power Marketing (“TransCanada”),

1 Kenneth Traum of the Office of Consumer Advocate, Daniel Allegretti on behalf of
2 Constellation NewEnergy, Inc., Constellation Energy Commodities Group, Inc.
3 (collectively, “Constellation” and the Retail Energy Supply Association (“RESA”), and
4 Sandi Hennequin of the New England Power Generators Association (“NEPGA”). We
5 will provide comments on two issues in this rebuttal testimony: i) the impact of customer
6 migration on Energy Service rates; and, ii) PSNH’s power procurement options. Those
7 comments will include general comments that apply to all of the testimony as well as
8 specific comments on certain points made by some of the witnesses in their testimony.

9 **Q. Please summarize the issues to be addressed in this rebuttal testimony.**

10 A. In PSNH’s prefiled testimony provided by Mr. Baumann, two general points of
11 importance were emphasized. First, due solely to migration of load by larger customers
12 to competitive suppliers, smaller (primarily residential) customers who remain on the ES
13 rate are faced with higher costs. Mr. Baumann testified that this was unfair to these
14 smaller customers as the larger customers who had the opportunity to switch to a third
15 party supply were avoiding certain costs to their benefit and to the detriment of the
16 smaller customers.

17 Secondly, in concert with this first general point, we suggested all parties work towards
18 addressing this fairness issue and then stated that one possible solution to obtain equity
19 for all customers would be to remove certain costs from ES and allow PSNH to collect
20 these costs from all customers through a non-bypassable rate mechanism.

1 **Q. Did the September 15 rebuttal testimonies address the fairness issue noted above?**

2 A. No. To our dismay, only the OCA addressed the fairness issue characterizing it as “cost
3 shifting” and noting that “the current design of the system is unfortunately
4 disadvantaging smaller customers.” (pg.6). The other three rebuttal testimonies that we
5 will refer to as the supplier testimonies (Constellation/RESA, TransCanada and NEPGA)
6 did not address this important topic. They chose to only address the virtues of their
7 companies getting into the supply chain for ES customer load obligation and possibly all
8 PSNH load obligation. Again, the overall theme of the supplier testimonies was to ignore
9 the most important point of “fairness to all customers”. In fact, these testimonies framed
10 the blame for the current increase in the ES rates on PSNH’s power procurement
11 decisions, not migration. What is even more disturbing is that none of the September 15
12 rebuttal testimonies outlined a detailed approach aimed at providing a long-term solution
13 that would provide stable rates to customers at a reasonable price.

14 **Q. How important is stability of rates for customers?**

15 A. Rate stability and predictability are very important concepts for customers and ones that
16 they value very much. The Commission has noted the importance of these factors in
17 many prior rate decisions. The supplier testimonies presented short-term approaches that
18 are only supported by a narrow view short-term of today’s economic conditions. They
19 ignore the past, and PSNH fears they ignore the future as well. This near-term thinking
20 ignores any long-term solutions that would offer proven benefit to customers. In
21 contrast, PSNH’s generation assets have provided long-term rate stability and
22 predictability to customers, especially in times where market prices have been very
23 volatile.

1 **Comments on TransCanada's Testimony**

2 **Q. Please summarize TransCanada's testimony.**

3 A. TransCanada stresses their goal for a “positive development of the market for electricity
4 in New Hampshire”(pg.3). They also claim that PSNH “is out of step with what other
5 distribution companies in New Hampshire and New England follow when purchasing
6 power to meet default customer demand.”(pg.5). The solution they offer is, “issuing
7 open and competitive Requests for Proposals for supplemental power, if needed” which
8 would naturally afford TransCanada and other suppliers additional opportunity to make
9 more money in an expanded marketplace.

10 TransCanada then goes on to champion the fight against having the customers “bearing
11 the burden of newly-imposed stranded costs from the local utility;” (pg.5). In direct
12 conflict with this position, they quickly pick up the OCA's suggestion (OCA Alternative
13 #1) for divestiture of PSNH's generation and contractual commitments for energy which
14 would create the additional need to bid out the load (providing additional supplier
15 opportunity), and possibly create significant stranded costs for customers. Their
16 testimony is silent on the long-term cost for these self-serving solutions that they have
17 supported.

18 Lastly, TransCanada talks about the benefits that would accrue to PSNH's customers if
19 the competitive suppliers managed the migration risk. They go on to claim that if they
20 supplied the load, the “residential class would incur minimal to no migration risk
21 premium”. A zero cost to customers for risk premium strikes us as an offer that is simply
22 too good to be true. What they fail to mention is that risk premiums for future price risk
23 and risk premiums for future volume risk due to factors such as weather and economic
24 conditions are inherently included in the price paid by customers. PSNH does not believe

1 these risk premiums will be free. When asked in a data request (Q-PSNH-13) for price
2 risk and volume risk premium cost components embedded in their rates, their response
3 was that they would not supply this competitive data as it is “unduly burdensome” and
4 “irrelevant to this proceeding”. It is inconceivable that future costs that customers will
5 shoulder under TransCanada’s proposal are irrelevant to this proceeding. Moreover, they
6 also refused to supply the additional layer of profit included in their prices, deeming that
7 information irrelevant as well.

8 **Comments on OCA’s Testimony**

9 **Q. Please address the OCA’s testimony.**

10 A. To their credit, the OCA clearly identified that there is a real cost shifting in the present
11 ES rate mechanism which is burdening the smaller customers unfairly. In fact, one of the
12 reasons why PSNH is engaged in this docket today is the concern and support the OCA
13 has shown in the past for the residential customers. However, PSNH is concerned that
14 the OCA, along with the suppliers, has failed to focus on long-term strategies for stable
15 rates at reasonable prices for all customers, and has suggested alternatives that PSNH
16 believes would work against both of these key principles.
17 Specifically, the OCA’s alternative No.1 calls for divestiture of PSNH’s generation and
18 contractual commitments for energy, which would strip the customer of an ES alternative
19 of having load served by PSNH’s own cost-of-service regulated generation. If PSNH’s
20 generating assets were divested, customers would lose the value of that generation and
21 would be entirely subjected to the volatility of market prices. If recent market price
22 volatility continues in the future, there would be a detrimental impact on customers,
23 combined with an added middleman layer of profit from third party supply. As markets
24 tend to be cyclical, taking a narrow short-term view of this issue as the economy slowly

1 tries to emerge from a significant recession would severely distort more rational longer-
2 term planning.

3 **Q. Do you have any comments on Mr. Traum's second idea (Alternative No. 2) that**
4 **would allocate costs differently to different classes of customers?**

5 A. Yes. This is an intriguing suggestion that perhaps should be explored more fully. One
6 way to allocate costs differently would be to price Energy Service for PSNH's largest
7 customers at marginal cost plus an adder. Most of PSNH's largest customers have
8 migrated to competitive suppliers, so if they returned to PSNH to take Energy Service,
9 any incremental price above marginal cost could be used to reduce ES rates for all other
10 customers.

11 **Q. Has anything like this been done in the past?**

12 A. Yes, it has. In 2002, PSNH was approached by market participants and was asked to
13 work cooperatively in an effort to stimulate competition and retail choice. At that time,
14 PSNH's ES rate was well below market. Over a series of months, PSNH and the market
15 participants developed a program of limited duration that was intended to provide
16 incentives to customers to seek alternative suppliers. Under the program, PSNH would
17 provide credits to customers approximately equal to the difference between PSNH's
18 average cost and the short-term market price. The Commission approved the program in
19 Docket No. DE 03-193.

20 Today, the situation is reversed. PSNH's average ES rate is in excess of the short-term
21 market price for larger customers. Therefore, the Commission should examine a program
22 similar to what it approved in 2003 in order to provide benefits to all customers and avoid

1 the unintended effect that migration has had on customers who remain ES customers of
2 PSNH. If customers who have already migrated returned to PSNH's Energy Service at a
3 price in excess of short-term marginal cost, all customers would benefit.

4 **Comments on Constellation/RESA's Testimony**

5 **Q. Please summarize Constellation/RESA's testimony.**

6 A. Mr. Allegretti provided testimony on behalf of Constellation and RESA. In that
7 testimony, he recommends that the Commission abandon the methodology that has been
8 utilized by PSNH over the last nine years for procuring power to meet its customers'
9 Energy Service needs and instead adopt a "Full Requirements Service" ("FRS") approach
10 to meeting those needs. Under that approach, all of PSNH's ES load would be served by
11 one or more competitive suppliers. Mr. Allegretti claims that such an approach would be
12 better for customers because it would eliminate uncertainty associated with forecasting,
13 would avoid an after-the-fact prudence review, and would result in prices that are
14 reflective of the market. He also maintains that unregulated wholesale suppliers have
15 greater resources and expertise than PSNH which he maintains will benefit customers,
16 and that the FRS model provides a better price signal due to the lack of a reconciliation of
17 actual costs and revenues.

18 In addition, similar to the TransCanada testimony, Constellation claims that they can
19 bring "relief" to utilities and their customers from risk management exposure (pg.6) and
20 can provide price and quantity risk "insurance" to customers. (pg.8). Unfortunately, the
21 cost of such relief and insurance is undefined. Their viewpoint is clearly stated on page 6
22 of their testimony when they state:

1 Furthermore, potential bidders are interested in well-defined FRS
2 products and are comfortable with pricing such products through
3 competitive processes such as the procurements in the FRS Structure.

4 While it is apparent the suppliers want to be comfortable, that is not the issue at hand.

5 When asked in a discovery request (PSNH – 6) what the real cost to customers would be
6 of all of their recommendations, Constellation, similar to TransCanada, also stated that
7 these costs were “irrelevant”. In short, Constellation would like the Commission to
8 develop a market for suppliers so they can feel “comfortable”, but they don’t state how
9 much it will cost customers.

10 **Q. Do you agree with Mr. Allegretti’s position?**

11 A. No, we do not. In assessing whether to adopt Mr. Allegretti’s FRS approach, the
12 Commission should examine the motivations behind this approach. Since the inception
13 of restructuring in New Hampshire, Mr. Allegretti and other representatives of
14 competitive suppliers have recommended that PSNH’s generating units be sold and/or
15 that PSNH bid its ES load to the market rather than serve that load with its own
16 generation supplemented by market purchases. Competitive suppliers have a financial
17 interest in eliminating PSNH’s practice of managing its own portfolio in order to expand
18 their potential market. Essentially, Mr. Allegretti is suggesting that the Commission
19 make a drastic change in policy as a result of a relatively recent situation where market
20 prices have significantly decreased. He no doubt views this docket as a window of
21 opportunity to expand the potential market for Constellation’s products and services.

1 **Q. Would the implementation of a FRS approach reduce administrative burden for the**
2 **Commission?**

3 A. No, it would not. Mr. Allegretti states that a managed portfolio approach raises a host of
4 regulatory and prudence issues, and it's very difficult for the Commission to determine
5 whether PSNH has acted prudently. However, under the FRS approach, there would be
6 an entirely different set of new and different issues for the Commission to consider. The
7 Commission would need to review the bidding process, the language of the RFPs that
8 were issued, and would also need to review all of the bids after the fact to ensure that the
9 best option had been selected. With regard to a prudence review under a managed
10 portfolio approach, the Commission has been conducting such reviews since the
11 inception of the regulatory compact. The Commission is clearly capable of conducting
12 those reviews.

13 **Q. Would an FRS approach result in prices that are more reflective of the market?**

14 A. Not necessarily. It would depend on the timing of the issuance of the RFPs, the design of
15 the FRS model (e.g., the amount of load put to bid, the layering of bids, the pricing of the
16 power to customers, the length of the term of the contracts, etc.). Moreover, it would also
17 depend on one's definition of "the market". That term could refer to a short-term market
18 or a long-term market, or even a spot market. In fact, depending on the definition one
19 uses, a managed portfolio approach could more closely reflect "the market". The
20 Commission would also have to decide when RFPs should be issued, the amount of load
21 to be served by each RFP, and the laddering of the RFPs, all of which would affect the
22 ultimate price paid by customers. And, one should not forget that the energy market has
23 shown extraordinary pricing volatility in recent years. Thus, pricing "reflective of the

1 market” would subject consumers to that volatility, and eliminate the stability of prices
2 provided by PSNH’s cost-of-service regulated generating fleet.

3 **Q. Does PSNH have the resources necessary to manage a portfolio of power supply?**

4 A. Yes, it does. PSNH has been effectively managing its portfolio for many years. In fact,
5 over the last several years, PSNH’s strategy for managing its portfolio has changed as
6 markets have changed. For example, when prices became highly volatile, PSNH
7 implemented a strategy, in consultation with the Staff and OCA, to procure power on a
8 staggered basis over time in order to prevent significant swings in its ES rate.

9 **Q. What about Mr. Alleghetti’s contention that Constellation is better able to manage a**
10 **portfolio as a result of the significant amount of resources it has available?**

11 A. Any costs incurred by Constellation (or any other competitive supplier) must be
12 recovered through a premium on the price it charges for power. If the supplier never
13 recovered its costs, it would go out of business. Therefore, contrary to what Mr.
14 Alleghetti would like the Commission to believe, customers served under his FRS
15 approach will ultimately pay the cost for the team of experts employed by Constellation.

16 **Q. But won’t this team of experts produce better results for customers than an**
17 **individual utility?**

18 A. Not necessarily. Interestingly, Constellation refers to a Rhode Island proceeding (RIPUC
19 Docket No. 4041) (testimony page 16) where it submitted testimony that was very similar
20 to its testimony in this proceeding. In that proceeding, Constellation attempted to
21 convince the RIPUC to retain the FRS approach rather than transitioning to a managed
22 portfolio approach. Richard Hahn, a consultant from LaCapra Associates, provided

1 testimony on behalf of the Rhode Island Division of Public Utilities and Carriers. In
2 response to a question about whether the vast resources at Constellation make it better
3 suited to determine what Standard Offer Service will cost, Mr. Hahn responded as
4 follows:

5 No. I do not doubt the capabilities of the Constellation team. Their 24-hour
6 trading desk activities and their abilities to trade in many commodities and
7 weather derivatives likely create value for Constellation by maximizing profits.
8 However, once a Full Requirements Service contract is signed, nothing the
9 Constellation team does will reduce costs to customers in Rhode Island.

10 This same principle applies in New Hampshire. While Constellation has significant
11 experience at mitigating its risk in supplying power to customers, the effectiveness of this
12 experience is unproven. Moreover, once a bid is awarded, all of that effort does nothing
13 for customers; rather, it simply enhances Constellation's bottom line. In contrast, under
14 the managed portfolio approach utilized by PSNH, any savings attributable to risk
15 mitigation and cost reduction redound to customers.

16 **Q. Mr. Allegretti provided a study by NorthBridge to support his recommendation that**
17 **the Commission adopt an FRS approach for power supply. (Testimony at page 16).**
18 **Do you agree that the NorthBridge study supports Mr. Allegretti's**
19 **recommendation?**

20 A. No, we do not. Interestingly, the NorthBridge study actually concludes that a managed
21 portfolio approach results in *lower* expected rate levels than an FRS approach. Mr.
22 Allegretti is asking the Commission to change its policy based on a study that concludes
23 that the FRS approach will produce higher prices. As discussed above, the Commission
24 should closely examine the motives behind Mr. Allegretti's recommendation, since

1 higher ES prices will benefit Constellation and other competitive suppliers, a fact that
2 Mr. Allegretti has previously conceded¹.

3 **Q. Mr. Allegretti maintains that utilization of an FRS approach is common in other**
4 **jurisdictions. Do you have comments on that statement?**

5 A. Yes. While the use of the FRS model is common in other jurisdictions, there are
6 significant differences between the restructured models in those jurisdictions as compared
7 to the model used for PSNH in New Hampshire. The overriding difference is that PSNH
8 continues to own generation while utilities in other jurisdictions do not. In response to a
9 discovery request by PSNH for a listing of all utilities which use the FRS model and also
10 own generation, Mr. Allegretti was unable to identify a single utility in that situation.
11 Ownership of generation places PSNH in a unique position relative to other utilities,
12 making the use of the FRS model impractical, since PSNH is required to use the output of
13 its generation to serve its customers' Energy Service requirements.

14 **Q. Mr. Allegretti suggests that the Commission could require PSNH to deliver the**
15 **output of PSNH's generation assets to the ES suppliers who serve the ES load.**
16 **Would this comply with the requirements of the law?**

17 A. We have been advised by counsel that such a scheme would not comply with the
18 requirements of existing law. RSA 369-B:3 IV(1)(A) provides, in part:

19 From competition day until the completion of the sale of PSNH's ownership
20 interests in fossil and hydro generation assets located in New Hampshire, PSNH
21 shall supply all, except as modified pursuant to RSA 374-F:3, V(f), transition
22 service and default service offered in its retail electric service territory from its

¹ In Docket No. DE 07-096, in response to a question as to whether higher prices benefit Constellation NewEnergy, Mr. Allegretti responded, "Constellation NewEnergy is always in a better position to sell a product where its cost is below the price it has to beat. To the extent that a higher default price means there's more of a window there, then that would be an enhanced opportunity." Tr. 11/28/07, pp. 125 – 126.

1 generation assets and, if necessary, through supplemental power purchases in a
2 manner approved by the commission.

3 Under Mr. Alleghetti's proposal, PSNH would be engaging in a wholesale sale of power
4 to the ES supplier(s), who would then be the supplier of power to the customer. PSNH
5 would no longer be the load serving entity and therefore would no longer "supply
6 all...default service offered in its retail electric service territory from its generation
7 assets..." A change to the law would therefore be required in order to implement Mr.
8 Alleghetti's proposal.

9 **Q. Do you have any comments about Mr. Alleghetti's other suggested policies or tools**
10 **that he recommends the Commission should consider?**

11 A. Yes. Mr. Alleghetti suggests that the Commission consider a Purchase of Receivables
12 program under which utilities are required to purchase the receivables from a competitive
13 supplier. This program would essentially eliminate all of the risk faced by a competitive
14 supplier with respect to customers not paying their bills and transfer that risk to the
15 utility. This recommendation is remarkable, in view of Mr. Alleghetti's contention that
16 competitive suppliers such as Constellation are better at managing risk than utilities.
17 Apparently, risk of nonpayment is a risk that suppliers are not adept at managing, so Mr.
18 Alleghetti is attempting not only to eliminate PSNH as an Energy Service provider, but
19 also wants PSNH to accept a large share of the risk associated with serving customers
20 who have migrated. Most alarming is Mr. Alleghetti's statement that Purchase of
21 Receivables is a transitional tool to an end state where suppliers will provide consolidated
22 billing service. Essentially, Mr. Alleghetti first wants to eliminate a huge portion of his
23 risk by requiring PSNH to accept that risk, then wants to insert his company, an
24 unregulated entity, between PSNH and its customers. Such a suggestion should raise

1 significant red flags with the Commission, as it would remove the Commission's
2 regulatory authority over the billing of customers by placing an unregulated entity in that
3 role.

4 Finally, Mr. Allegetti wants the Commission to provide suppliers with electronic access
5 to confidential customer usage and account data including historic usage, rate codes,
6 payment history, addresses, cycle reading information and other information, all without
7 any regulatory oversight, since the suppliers are unregulated entities. As in the case of
8 his other recommendations, the Commission should question the motives behind this
9 recommendation.

10 **Q. Has Mr. Allegetti provided the Commission with a proposal that can be**
11 **implemented?**

12 **A.** No, he has not, contrary to the Commission's earlier requirement that he do so in order
13 for such a proposal to be considered. In Order No. 24,814 issued December 28, 2007 in
14 Docket No. DE 07-096, the Commission said:

15 "Finally, we note that there is a divergence of opinion regarding the merits of
16 requiring PSNH to issue an RFP for power requirements not supplied from its
17 own resources. Because competitive power suppliers in the state, as well as other
18 parties, may have an interest in this proposal, we believe it would be
19 inappropriate to rule on the issue based on the limited record created in this
20 proceeding. In fact, Constellation characterized its testimony as an overview of a
21 proposal for future consideration. With this in mind, we will wait for
22 Constellation to file a fully detailed proposal on the implementation of a process
23 whereby PSNH would solicit supply for its power requirements not supplied
24 from its own resources." Order No. 24,814 slip op. at 19.

25 In his testimony in this docket, Mr. Allegetti has failed to provide any such fully detailed
26 proposal.

1 **Comments on NEPGA's Testimony**

2 **Q. Please summarize NEPGA's testimony.**

3 A. NEPGA recommends that the Commission suspend the schedules in all dockets that
4 involve power procurement, and that the Commission require PSNH to issue an RFP for
5 its supplemental power supply needs.

6 **Q. Do you agree with NEPGA's recommendations?**

7 A. No, we do not. There is no need to suspend other dockets while the Commission is
8 considering the issues in this docket. The Commission is fully capable of conducting
9 those dockets on a parallel path and including the effect of its decision in this docket into
10 its decisions in the other dockets as necessary. Moreover, NEPGA's specific reference to
11 the Laidlaw docket is simply a continuation of the effort of competitive supplier
12 intervenors in the Laidlaw docket to do everything possible to delay that proceeding,
13 contrary to the public interest. Regarding the recommendation that the Commission
14 require the issuance of an RFP, PSNH disagrees with that recommendation for the
15 reasons stated above in its rebuttal of Constellation's proposals.

16 **Q. Do you have any other comments on NEPGA's testimony?**

17 A. Yes. NEPGA expresses a concern about the hybrid model used by PSNH and maintains
18 that acceptance of PSNH's proposal to create a non-bypassable charge on all customers
19 would serve as a disincentive for customer migration. We don't agree. Acceptance of
20 PSNH's proposal would require competitive suppliers to compete on the basis of the
21 price of power in the market. It would therefore create a "level playing field" for non-
22 migrating customers, which is a common complaint of competitive suppliers, as

1 evidenced by their support of just such a program in Docket No. DE 03-193 discussed
2 above.

3 **Q. Please summarize your rebuttal testimony.**

4 A. The Commission should conclude that the current situation is resulting in an unfair
5 shifting of costs to customers who have not migrated. This issue is the key issue in this
6 docket. In addition, the Commission should reject the arguments made by suppliers that
7 the entire process of serving ES load be turned on its head. There is no factual basis that
8 requiring PSNH to bid ES load into the market will result in lower costs to customers. In
9 fact, the only third-party evidence on this issue, the NorthBridge report prepared for the
10 Rhode Island Public Utilities Commission, concluded that a FRS approach would
11 *increase* the price of Energy Service to consumers. Rather, such a process will provide
12 more business for competitive suppliers. The Commission should examine the
13 motivation of suppliers when considering their testimony. Suppliers are motivated by
14 one thing - - profit - - as they have no overriding public service obligation to consumers.
15 Those suppliers can choose to withdraw from a market at any time, leaving consumers
16 behind to deal with the consequences. While there is nothing wrong with that motivation
17 from suppliers' perspectives, the Commission must decide whether adopting their
18 recommended approach is in the best interests of all customers. PSNH does not believe
19 that it is.

20 **Q. Does this complete your testimony?**

21 A. Yes, it does.