

THE STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Annual Reconciliation of Energy Service and Stranded Costs for 2013
Docket No. DE 14-120

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE'S OBJECTION TO
CONSERVATION LAW FOUNDATION'S PETITION TO INTERVENE**

Pursuant to New Hampshire Code of Administrative Rules Puc 203.07 and RSA 541-A, Public Service Company of New Hampshire ("PSNH" or the "Company") hereby objects to the Petition to Intervene filed by the Conservation Law Foundation ("CLF") in this docket. In the alternative, PSNH requests that CLF's participation in the docket be limited to the issues relevant to this filing. In support of its objection, PSNH states the following:

1. On May 1, 2014, PSNH filed its annual reconciliation of energy service and stranded costs for calendar year 2013. On May 21, 2014, the Commission issued an order of notice in the docket stating:

The filing raises, *inter alia*, issues related to issues related to [*sic*] the prudence of generation outages that are reflected in PSNH's energy service costs for the period; the prudence of PSNH's use of its generation resources during the period as well as the prudence of the market purchases used to supplement those resources; the prudence and reasonableness of PSNH's incurred capital costs; whether it is appropriate for PSNH to recover from ratepayers \$5.7 million in funds from the Rate Revenue Bonds trust accounts; and whether PSNH has otherwise appropriately accounts for and reconciled its energy service and stranded costs and any offsetting revenues for the period in accordance with the Restructuring Agreement and applicable law.

The order of notice also set a Prehearing Conference for June 5, 2014.

2. On June 3, 2014, CLF timely filed a petition to intervene, seeking to be granted full intervenor status in the proceeding. CLF has not, however, demonstrated that either its,

or its members', rights, duties, privileges, immunities, or other substantial interests may be affected by the proceeding; nor has CLF demonstrated that the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing its intervention, as required by RSA 541-A:32. Accordingly, its petition should be denied.

3. In Docket No. DE 13-108, the docket covering PSNH's reconciliation of energy service and stranded costs for 2012, the Commission clearly defined the scope, subject, and limitations of PSNH's annual reconciliation dockets. The Commission stated:

The subject of this docket is the annual filing by PSNH to reconcile the revenues and expenses associated with its stranded cost recovery and the power generation and supplemental power purchases for 2012. Reconciliation involves a retrospective analysis of revenues and expenses associated with PSNH's stranded cost recovery and the power generation and supplemental power purchases for 2012.

When these reconciliation filings are made, a prudence review is conducted to determine whether the Company should recover from ratepayers the costs claimed for a prior year. In connection with the costs of PSNH's generation fleet, the Commission reviews the planned outages and associated power purchases to determine whether PSNH acted in a prudent and reasonable manner. Similarly, with unplanned outages, the Commission investigates the cause of the outages and the associated replacement power purchases to assess whether PSNH could have taken reasonable steps to avoid the outages and to understand whether PSNH made purchases for replacement power that provided reasonable value to its customers. In so doing, the Commission also determines the extent to which costs claimed by PSNH should be recovered from customers. *Therefore, 2012 plant performance, plant outages, replacement power purchases, and other purchases of power and capacity and stranded cost recovery are included in the scope of this docket.* Also, the prudence and reasonableness of PSNH's incurred capital costs, and whether PSNH has otherwise appropriately accounted for and reconciled its energy service and stranded costs and any offsetting revenues for the period considered in accordance with the Restructuring Agreement and applicable law, are included in the scope of this docket.

Prospective costs are not considered in a reconciliation docket. With the exception of whether power purchases and generation decisions are consistent with the company's least cost integrated resource plan (LCIRP), PSNH's planning process and least cost procurement protocols

will not be considered . . . Likewise, while the Commission appreciates that CLF's mission is primarily environmental, any environmental-compliance issues or environmental and health impacts associated with the operation of PSNH's generation fleet are beyond the scope of this docket. The Public Utilities Commission does not review or enforce environmental laws that should properly be reviewed by the New Hampshire Department of Environmental Services, the U.S. Environmental Protection Agency, or the courts. CLF, and all parties, must limited their discovery, testimony and examination to remain within the scope described herein.

Public Service Company of New Hampshire, Order No. 25,540 (July 9, 2013) at 3-5 (emphasis added) (footnote omitted). In its order, the Commission clearly defined the purpose and scope of these dockets and stated that to the extent a review of PSNH's generating plants is undertaken, that review is limited to the prudence of costs incurred in operating the plants or making supplemental purchases to address any energy supplies not covered by the plants. The purpose of these dockets is not to review environmental issues or health impacts relating to PSNH's generating plants. The Commission has made it clear that not only is this the inappropriate forum for such issues, but also the improper agency. Other than the year having changed, this docket is the same as that described in Order No. 25,540.

4. Despite the Commission having made clear that the scope of these dockets does not allow for the review of environmental issues or public health issues, in its petition to intervene CLF nevertheless contends that it should be granted participation for review of environmental issues and public health concerns. Specifically, CLF states:

CLF represents the interests of its members in avoiding adverse economic impacts associated with continued use and reliance on uneconomic, *environmentally unsustainable* electricity generation... PSNH's operation of its fossil fuel power plants and the resulting costs *implicate the direct and substantial environmental and public health interests of CLF and its members, including those exposed to harmful and toxic air pollution from PSNH plants.*

In this docket, the Commission must determine whether PSNH's decisions in 2013 met the statutory standards of prudence and reasonableness and whether the resulting rates are just and reasonable. *These issues raise important economic and environmental concerns which, as set forth above, affect the rights, duties, and privileges of CLF and its members.*

CLF June 3, 2014 Petition to Intervene at 1-3 (emphasis added).

5. From its petition, it is clear that CLF is attempting to carry its and its members' interests in environmental and public health issues under the language of "economic vitality" as it relates to PSNH's generating plants. The Commission has previously acknowledged this claim and explicitly stated:

We understand that CLF and the OCA have continued concerns about PSNH's ownership and operation of its generating plants, but this proceeding is conducted to look back at the Company's operation of the plants in 2012 and to determine whether the costs that it incurred are the "actual, prudent and reasonable costs" consistent with the requirements of RSA 369-B:3, IV(b)(1)(A).

Public Service Company of New Hampshire, Order No. 25,647 (April 8, 2014) at 18. In representing "the interests of its members in avoiding adverse economic impacts associated with continued use and reliance on uneconomic, environmentally unsustainable electricity generation," CLF is contending that it is focusing on the very issues the Commission has stated are not part of this docket – namely, CLF's concerns about PSNH's ownership and operation of its generating plants.

6. CLF does acknowledge Order No. 25,540, and makes reference to the costs incurred by PSNH relating to the economic interests of both it and its members. However, despite this acknowledgement and the claims of an economic interest, CLF continues to state that it represents the interests of its members in protecting them against alleged environmental and public health harms – issues which the Commission has plainly stated are not within the scope of these dockets. This is contrary to Order Nos. 25,540 and 25,647. By

attempting to drape its environmental and health interests in economic terms, CLF disregards the purpose and scope of this docket. CLF views matters of PSNH's revenues and expenses as a mere gateway to a discussion of environmental and public health issues. In that CLF's underlying interest is in environmental and public health issues, and that neither this docket, nor this Commission, reviews such issues, CLF has not demonstrated any rights, duties, privileges, or interests affected by this proceeding, nor that the interests of justice justify its participation. Accordingly, CLF is not entitled to intervene in this docket.

7. Moreover, CLF claims that both it and its members "have a direct and substantial interest in the outcome of this proceeding." CLF, June 3, 2014, Petition to Intervene at 2.

However, CLF has not demonstrated any basis for its own interests in this proceeding. In PSNH's prior reconciliation, the Commission noted that CLF had no specific interest of its own. *See Public Service Company of New Hampshire*, Order No. 25,540 at 3. In another docket addressing costs relating to PSNH's generating assets, the Commission similarly concluded:

The Commission has determined that although NEPGA, TransCanada, Sierra Club and CLF *have not demonstrated affected rights, duties or privileges that mandate their intervention ...*

See December 23, 2011, Secretarial Letter in Docket No. DE 11-250 at 1. Accordingly, the Commission has already recognized that CLF does not, itself, have any interest at stake in proceedings relating to PSNH's generating costs.

8. In addition, the economic interests CLF claims its members have in PSNH's annual reconciliation are insufficient to make CLF an intervenor. In its petition, CLF states that intervention "will allow CLF to protect the interests of CLF's New Hampshire members

who are PSNH default energy service customers and pay bills determined using the rates resulting from Commission decisions in this proceeding.” CLF June 3, 2014 Petition to Intervene at 2. CLF, however, describes itself as a “private, non-profit *environmental* membership organization dedicated to the protection and responsible use of New England’s natural resources.” CLF June 3, 2014 Petition to Intervene at 1 (emphasis added). CLF provides no nexus between its status as an “environmental” organization dedicated to protecting natural resources and its claimed role as a protector of its members’ default energy service rates. Further, to the extent that CLF’s members might have some general economic interest in this docket, that interest is already represented by others, including the Office of Consumer Advocate, and, to an extent, the Commission Staff. In short, because CLF is only concerned about matters either beyond the scope of this docket, or matters in which it does not have an interest, there is nothing in CLF’s petition that provides a basis for it to intervene.

9. Despite the above, should the Commission determine that CLF has some interest in participating in this docket, PSNH requests that any intervention be limited. As the Commission has made clear, these reconciliation dockets have a particular scope and focus, and that scope does not include issues relating to the environmental concerns or the public health issues CLF wishes to pursue. PSNH, therefore, requests that the Commission re-confirm the scope of these dockets and, to the extent it permits CLF to participate, to limit its participation accordingly.

WHEREFORE, PSNH respectfully requests that the Commission:

- (1) Deny CLF's Petition to Intervene;
- (2) Limit CLF's participation if the Petition to Intervene is granted; and
- (3) Order such further relief as may be just and equitable.

Respectfully submitted,

Public Service Company of New Hampshire

June 5, 2014
Date

By: 
Matthew J. Fossum
Senior Counsel
780 North Commercial Street
Post Office Box 330
Manchester, New Hampshire 03105-0330
(603) 634-2961
Matthew.Fossum@nu.com

CERTIFICATE OF SERVICE

I hereby certify that, on the date written below, I caused the attached Objection to be served pursuant to N.H. Code Admin. Rule Puc 203.11.

June 5, 2014
Date


Matthew J. Fossum