

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

Docket No. DE 14-238

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Determination Regarding PSNH's Generation Assets

**RESPONSE OF CONSERVATION LAW FOUNDATION
TO PSNH OBJECTION TO PETITION TO INTERVENE**

Conservation Law Foundation ("CLF") appreciates the opportunity to respond to the objection of Public Service Company of New Hampshire ("PSNH") (Docket Tab 18, the "Objection") to CLF's petition for leave to intervene in the above-captioned docket (Docket Tab 8, the "Petition").

PSNH's principal argument against CLF's intervention is that PSNH doubts the degree of CLF's interest in representing the economic interests of its members. *See* Objection at 10. As described in detail in the Petition, CLF's areas of concern encompass the environmental *and* economic issues facing our members, especially, as here, when those issues overlap and interrelate. As stated on our website, CLF's mission is to "protect[] New England's environment for the benefit of all people," by using "the law, science and the market to create solutions that preserve our natural resources, build healthy communities, and *sustain a vibrant economy*." *See* <http://www.clf.org/about-clf/our-mission/> (emphasis added).

PSNH argues that granting CLF intervention is akin to recognizing the right of any non-profit organization to represent its members' financial interests in an administrative proceeding. *See* Objection at 10. Even if PSNH's point was a legitimate concern under the New Hampshire Administrative Procedure Act (it is not and PSNH has provided no authority that it is), it is not a reasonable comparison here. CLF's deep concern for economic matters, and specifically those

economic challenges presented by PSNH's ownership and operation of power plants, is reflected in its long track record of appearances before the Commission and in other forums.¹ In recent years, CLF has heavily focused its participation in Commission dockets on the economic merits of PSNH decisions and those decisions' ramifications for PSNH customers. For example, in DE 10-261, the docket concerning PSNH's Least Cost Integrated Resource Plan, CLF asserted its members' economic interests in its petition to intervene (which was granted without controversy), and CLF's testimony regarding Schiller Station Units 4 and 6 focused on their underlying economics, the potential costs of prospective environmental requirements, and a forecast of their negative net revenues. Likewise, CLF's submissions to the Commission in the investigatory docket, DE 13-020 (which in part led to this docket), focused on the economics of Schiller Station.²

Finally, PSNH repeatedly and erroneously conflates the standard for intervention in Commission proceedings with the standard for "legal standing" in judicial proceedings. *See* Objection at 3, 5, 6, 8, 9, 10, 13. The latter is a constitutional prerequisite to litigation and requires a specific legal harm or injury. *See Duncan v. State, N.H. ___, slip op. at 10 (Aug. 28, 2014)*. By contrast, under RSA 541-A:32, I, a different, statutory standard applies: a party seeking to intervene in an administrative proceeding must "state[] facts demonstrating that the petitioner's rights, duties, privileges, immunities or other substantial interests *may be affected* by the proceeding" (emphasis added).

¹ CLF's members demonstrably share such economic concerns. For example, George Chase and Janet Ward, both of whom are members of CLF's New Hampshire Board (one of CLF's state advisory boards), as well as CLF's Board of Overseers, are PSNH ratepayers who have, with other ratepayers, recently appealed an order authorizing a PSNH rate increase to the New Hampshire Supreme Court. *See* Docket No. 2013-0307 (*Appeal of PSNH Ratepayers*).

² PSNH also seems to suggest that CLF members' role in the governance of the organization is somehow relevant to CLF's interest in representing its members' environmental and economic interests. This issue is not

In its Petition, CLF stated facts demonstrating that, like prior Commission proceedings involving PSNH's power plants, the outcome of this docket may have wide-ranging, significant implications for CLF's and our members' economic and environmental interests. This is what the Hampshire Administrative Procedure Act requires, establishing that CLF's "rights, duties, privileges, immunities or other substantial interests may be affected" and that therefore CLF is entitled to intervention. RSA 541-A:32, I. Of course, separate and apart from this standard which CLF has met, the interests of justice and the fact that CLF's involvement will not impair the orderly conduct of the proceeding also warrant its intervention. RSA 541-A:32, II.

Respectfully submitted,

CONSERVATION LAW FOUNDATION



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determinative of organizations' legal standing in judicial proceedings—a matter which is not applicable here, as discussed *infra*—nor does it affect the validity of CLF's interests in this docket.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document has on this 9th day of October been sent by email to the service list in Docket No. DE 14-238.



Thomas F. Irwin (NH Bar No. 11302)