

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

Docket No. DE 14-238
Determination Regarding PSNH's Generation Assets

REBUTTAL TESTIMONY OF SENATORS JEB BRADLEY AND DAN FELTES

1 **Q. Please state your name, title and mailing address.**

2 A. My name is Jeb Bradley, Senator for NH Senate District 3. My mailing address is State
3 House, Room 302, 107 North Main Street, Concord, NH 03301.

4 A. My name is Dan Feltes, Senator for NH Senate District 15. My mailing address is
5 Legislative Office Building, Room 5, 33 North State Street, Concord, NH 03301.

6

7 **Q. What is the purpose of your rebuttal testimony?**

8 A. The purpose of our rebuttal testimony is to respond to some of the flawed analyses and
9 recommendations of Michael Cannata, Mark Berkman and Richard Chagnon in their
10 testimony of September 18, 2015. We would also like to reinforce our strong support for
11 the Settlement Agreement as well as expeditious action. The longer the delay, the more
12 PSNH shareholders benefit, all at the expense of ratepayers. That's especially unfair to
13 residential ratepayers, many of whom are struggling to get by on fixed incomes.

14

15 **Q. What is your general opinion of and response to Mr. Cannata's testimony?**

1 A. In many ways, Mr. Cannata's testimony reflects an ideological opposition to divestiture,
2 as well as a misunderstanding the competitive market. If you take Mr. Cannata's flawed
3 opinions to their logical ends, divestiture would likely never happen.
4

5 **Q. Can you be more specific in your criticism of Mr. Cannata's testimony?**

6 A. Yes. We'll highlight a few points.

7 First, Mr. Cannata fails to even consider the fixed costs of PSNH's generation, which
8 averages approximately \$200 million per year. *See* Exhibit EHC-R-1 to Eric Chung's
9 rebuttal testimony. Any divestiture analysis that fails to account for the impact of
10 unloading generation assets, and the fixed costs associated with them, is fundamentally
11 flawed. The fixed costs impact is particularly harmful to ratepayers who are unaware or
12 unable to migrate away from PSNH's default energy service; in this case,
13 disproportionately residential ratepayers. Under this flawed analysis (or lack thereof),
14 when would we ever approve the divestiture of any generation assets? Maybe never.

15 Second, Mr. Cannata claims that customers would be obligated to pay the full costs of
16 energy. *See* Michael D. Cannata testimony, p. 11, ll. 10-12. This analysis assumes retail
17 customers of PSNH will automatically absorb any and all price spikes in the spot market
18 for wholesale energy after divestiture. That doesn't reflect the competitive market
19 reality. Retail prices do not directly correlate to wholesale prices in the spot market.
20 Under this flawed analysis, and since there will always be some degree of price spikes in
21 the spot market for wholesale energy, when would we ever approve the divestiture of any
22 generation assets? Likely never.

1 “Likely never” on divestiture is not the policy of the New Hampshire Legislature. To the
2 contrary, the plain language of SB 221, which passed the Senate on a voice vote and the
3 House by a vote of 308 to 43, provides a clear framework for Commission approval of
4 divestiture, and, in RSA 369-B:3-a specifically, requires expeditious action. Moreover,
5 to the extent Mr. Cannata may be expressing some concern about the treatment of
6 residential customers in the competitive market, it is worth noting that in 2015 the New
7 Hampshire Legislature also passed SB 170, significantly revising RSA 374-F:7, III to
8 provide Commission jurisdiction over, among other things, unfair or deceptive acts or
9 practices affecting residential customers in the competitive market. Residential
10 customers in the competitive market now have access to justice and consumer protection
11 at the Commission.

12 In short, the New Hampshire Legislature has taken reasonable steps to ensure the public
13 interest is protected in this transition to a more fully competitive energy market in New
14 Hampshire.

15
16 **Q. What are your general opinion of and response to Mr. Berkman’s testimony?**

17 A. Mr. Berkman is critical of the REMI estimated job creation value of the Settlement
18 Agreement of 3,239 jobs from 2015-2021, including job creation across all industries. In
19 the section of his testimony entitled “Evaluation of the REMI Analysis in Response
20 to Legislative Concerns,” Mr. Berkman acknowledges that “I can’t comment on
21 the expectations of the Legislature...” with respect to any analysis required. *See*
22 Mark Berkman testimony, p. 9, l. 13.

1 We can comment. It is embodied in the plain language of SB 221. Under SB 221,
2 the Commission shall:

3 ...consider the impacts on the economy in PSNH's service territory, the ability to
4 attract and retain employment across industries...

5
6 (Emphasis added). *See* SB 221, p. 3, ll. 21-22; p. 4, ll. 2-3. As a basic principle of
7 statutory construction, the Commission is bound by the plain language of the words of
8 the statute. As we stated in our direct testimony (pp. 12-13), we do not believe a REMI
9 analysis, let alone an elaborate cost-benefit analysis, is required in order for the
10 Commission to "consider" the criterion in the above sentence. Nevertheless, the REMI
11 analysis shows the Settlement Agreement is not only predicted to retain employment, but
12 it is predicted to create 3,239 jobs from 2015-2021, including creating jobs across all
13 industries. Therefore, Settlement Agreement clearly meets and exceeds the plain
14 language of the statute. (Emphasis added).

15 Moreover, if you applied the 3,239 new jobs to the number estimated by New Hampshire
16 Employment Security to be currently unemployed of 22,240 (*See*:
17 <http://www.nhes.nh.gov/elmi/statistics/documents/laus-current.pdf>), the Settlement
18 Agreement potentially meets almost 15% of the unemployed jobs need of New
19 Hampshire, assuming the unemployed jobs need remains static from 2015-2021. There
20 is nothing more important to our economy and our future than providing jobs to hard-
21 working Granite Staters, helping them and their families get by -- and that's exactly what
22 this settlement does.

23 It also worth noting that the Settlement Agreement requires all purchasers to keep the
24 generation plants in service for a minimum of eighteen months from the date of financial

1 closing and provides for municipal property tax stabilization, all helpful in advancing the
2 economy in PSNH's service territory as we transition to a more fully competitive market.
3 The Settlement Agreement also requires all purchasers to comply with the provisions of
4 the Collective Bargaining Agreement as set forth in Appendix B of the Settlement
5 Agreement, and assume non-represented Affected Employee protections as required by
6 RSA 369-B:3-b. *See* Settlement Agreement; p. 17, pp. 26-27. Many of these workers
7 have supported PSNH generation for a very long time and are highly skilled in the energy
8 field but may need retraining in order to transition to other employment. These important
9 provisions reasonably protect the interests of workers and their families, but also help to
10 meet the statutory criteria above.

11
12 **Q. What are your general opinion of and response to Mr. Chagnon's testimony?**

13 A. Mr. Chagnon proposes an alternative stranded cost allocation methodologies, or the so-
14 called "rate design". *See* Richard Chagnon testimony, pp. 9, 11 & 13. The "rate design"
15 of the Settlement Agreement is the product of untold weeks, days and hours of careful
16 consideration and negotiation in a comprehensive settlement of all issues with numerous
17 parties, including being supported by the Office of the Consumer Advocate because
18 while small customers pay a larger share of the stranded costs that will result from
19 divestiture, those customers will still realize significant savings through divestiture and
20 securitization. All of Mr. Chagnon's proposals saddle larger users, disproportionately
21 commercial and industrial customers, with higher energy costs. Like the Business and
22 Industry Association (BIA), we find these proposals concerning, and we believe "[i]t is

1 important to recognize that commercial and industrial rate payers drive New Hampshire's
2 economy." *See* Bradley-Feltes, Rebuttal Ex. A. The disruption of the Settlement
3 Agreement would send a bad message to the business community and our economy.

4
5 The Settlement Agreement has received wide-ranging stakeholder support, and we
6 believe that the broad, diverse assemblage of settling parties should be one of the factors
7 considered by the Commission in approving the Settlement Agreement, including
8 determining that the rate design is "fair", as required by SB 221, and as has been agreed
9 to by the parties. Moreover, as a matter of law, the Legislature has stated that one of this
10 Commission's duties is to "promote the settlement of outstanding issues involving
11 stranded costs." (2004 N.H. Laws, 310:1 [HB 1602]). Unravelling the accord on
12 equitable payment of stranded costs is inconsistent with this statutory duty.

13
14 **Q. Do you have anything else to add?**

15 A. Yes. Importantly, an expedited proceeding is required by Senate Bill 221 and in current
16 RSA 369-B:3-a. Why? Delay harms all ratepayers, and the public interest, by decreasing
17 the likelihood of getting a favorable interest rate in the securitization process and
18 prolonging PSNH's 9.81% rate of return paid by ratepayers on the company's generation
19 assets. To stall divestiture for five years, to unravel the Settlement Agreement, and to
20 likely propel everyone into protracted litigation, is not only radically unfair to PSNH
21 ratepayers, it's radically unfair to the entire State of New Hampshire. In order to bring

1 certainty to the market, to our businesses, and to all PSNH distribution ratepayers, now is
2 the time to finally move forward with this comprehensive settlement of all issues.

3

4 **CONCLUSION**

5 **Q. Does this conclude your rebuttal testimony?**

6 A. Yes, it does.