

**STATE OF NEW HAMPSHIRE**  
**before the**  
**PUBLIC UTILITIES COMMISSION**

**DOCKET NO. DE 14-238**

Determination Regarding PSNH's Generation Assets

**DOCKET NO. DE 11-250**

Investigation of Scrubber Costs and Cost Recovery

**DOCKET NO. DE 09-035**

Distribution Service Rate Case

**JOINT MOTION FOR EXPEDITED APPROVAL OF SETTLEMENT AGREEMENT**  
**AND RATE ADJUSTMENTS**

Pursuant to N.H. Code Admin. Rule Puc 203.07 and Puc 203.20, New Hampshire District 3 Senator Jeb Bradley, New Hampshire District 15 Senator Dan Feltes, the Office of Energy and Planning, Designated Advocacy Staff of the New Hampshire Public Utilities Commission, the Office of Consumer Advocate, the City of Berlin, New Hampshire (subject to ratification by the Berlin City Council), the International Brotherhood of Electrical Workers ("IBEW") Local 1837, the Retail Energy Supply Association, the New England Power Generators Association, the Conservation Law Foundation, TransCanada Power Marketing, Ltd. and TransCanada Hydro Northeast, Inc., the New Hampshire Sustainable Energy Association d/b/a NH CleanTech Council, Public Service Company of New Hampshire d/b/a Eversource Energy ("PSNH") and Eversource Energy ("ES") (collectively the "Settling Parties") hereby jointly move for the Commission's approval of the "2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement" (the "Agreement") relative to Eversource's fossil and hydro

generating facilities in New Hampshire. In support of this Motion, the Settling Parties state as follows:

## **BACKGROUND AND PROCEDURAL HISTORY**

1. When the New Hampshire Legislature determined that restructuring of the electric industry should occur in the 1990s, it required the Commission to develop a plan for restructuring the state's incumbent utilities, including PSNH, as well as the existing regulatory framework. *See* RSA chapter 374-F (Supp. 1997). Pursuant to the law and the Commission's plan, the state's electric utilities were to exit the business of owning and operating electric generating facilities and would leave electric generation services to be provided by unregulated entities. Following extensive litigation, the Commission approved a settlement agreement submitted in Docket No. DE 99-099 (the "1999 Restructuring Settlement Agreement"), subject to certain conditions, in Order No. 23,443 issued on April 19, 2000. The Commission's April 19 order was ratified by the Legislature (Laws 2000, Chapter 249, codified as RSA chapter 369-B), and, following additional process, on September 8, 2000 the Commission issued Order Nos. 23,549 and 23,550 approving the amended 1999 Restructuring Settlement Agreement and the terms for PSNH's "securitization" of certain stranded costs.

2. While the 1999 Restructuring Settlement Agreement included an agreement by PSNH to divest its generating assets, in 2001, in response to price volatility and market issues in other restructured electric markets, the Legislature passed HB 489 (Laws 2001, Ch. 29), which expressly prohibited PSNH from divesting its fossil and hydro generating assets at that time. Laws 2001, 29:13. Subsequently, in 2003, the Legislature passed SB 170 (Laws 2003, Ch. 21),

which established that after April 30, 2006 PSNH was permitted, but not required, to divest its generating facilities, but could only do so after the Commission had first determined that divestiture would be in the economic interest of PSNH's retail customers. Laws 2003, 21:4.

3. In 2006, the Legislature passed HB 1673 (Laws 2006, Chapter 105 codified as RSA 125-O:11, *et seq.*), which found installation of "scrubber" technology to be "in the public interest of the citizens of New Hampshire and the customers of the affected sources" (RSA 125-O:11, VI) and required the installation of such scrubber at PSNH's Merrimack Station no later than July 1, 2013. PSNH installed the scrubber at an eventual cost of \$422 million and it became operational in September 2011. The prudence of the scrubber costs and the manner of cost recovery are currently under review in Docket No. DE 11-250.

4. In 2014, the New Hampshire Legislature passed HB 1602 (Laws 2014, Chapter 310) which amended various laws, including RSA chapter 369-B and RSA chapter 374-F, with the express purpose of requiring "the public utilities commission to determine if divestiture of Public Service Company of New Hampshire's (PSNH) remaining generation assets is in the economic interests of PSNH's retail customers . . ." Laws 2014, 310:1. To that end, the Legislature required that the Commission open a docket to "commence and expedite" a proceeding to determine whether divestiture of some or all of PSNH's generating assets was in the "economic interest of retail customers of PSNH." *Id.* In response, the Commission commenced Docket No. DE 14-238.

5. On December 26, 2014, PSNH submitted a motion to stay in various proceedings, including those identified above, noting that there was the potential to settle many, if not all, issues relating to PSNH's generating facilities generally, and the scrubber proceeding specifically. The Commission granted that motion as to Docket No. DE 11-250, allowing numerous parties to engage in an extensive negotiation resulting in the Agreement submitted with this motion. The accompanying Agreement provides for a reasonable and orderly process for PSNH to divest its generating assets; enables the State to recognize the full implementation of a long-standing state policy; and provides a path for significant savings for customers through securitization of stranded costs to lock-in historically low interest rates in lieu of PSNH's cost-of-capital.

## **2015 SETTLEMENT AGREEMENT**

6. Pursuant to RSA 541-A:31, V(a), informal disposition may be made of any contested case at any time prior to the entry of a final decision or order, by stipulation, agreed settlement, consent order or default. Furthermore, under Puc 203.20(b):

The commission shall approve a disposition of any contested case by stipulation, settlement, consent order or default, if it determines that the result is just and reasonable and serves the public interest.

7. As noted above, less than one year ago HB 1602 was signed into law, which included as one of its express purposes the desire to promote the resolution of outstanding issues involving stranded costs by way of settlement. Laws 2014, 310:1. see also, RSA 369-A:1, IV.

8. Generally, the Commission encourages parties to reach a settlement of issues through negotiation and compromise as it is an opportunity for creative problem solving and is often a

more expedient alternative to litigation. *EnergyNorth Natural Gas, Inc. d/b/a National Grid NH*, Order No. 24,972 (May 29, 2009) at 48. Nevertheless, the Commission cannot approve a settlement without independently determining that the result comports with applicable standards to ensure that the settlement provides the public with the assurance that a just and reasonable result has been reached. *Id.* The process leading up to a proposed settlement is a relevant factor in determining whether the settlement should be approved. *Id.* Specifically, the fact that parties involved in a docket leading to a settlement agreement represented a diversity of interests, and that there was a demonstration that the issues were diligently explored and negotiated at length, provides a basis for concluding that the results of the settlement are reasonable and in the public interest. *Public Service Company of New Hampshire*, Order No. 25,123 (June 28, 2010) at 29. The Agreement presented with this motion is the product of extensive negotiation and agreement among parties of diverse interests and is just, reasonable, and consistent with the public interest and should be approved.

9. The Agreement is directly in line with the expectations and directives of the Legislature stated in Laws 2014, 310:1, as well as Laws 2002, 130:1, in that it promotes the settlement of issues relating to stranded costs while maximizing the value of the facilities and minimizing customer risk. Furthermore, by providing for the divestiture of the remaining fossil and hydro generating units owned by PSNH, the Agreement will help to facilitate the full and complete implementation of electric competition in New Hampshire as envisioned in RSA chapters 369-A, 369-B, and 374-F. Accordingly, this Agreement helps promote the legislative and public policy goals of the State while at the same time protecting the interests of customers.

As a result this Agreement is in the economic interest of customers, fully consistent with the public interest, and should be approved.

10. With respect to the settlement terms, as described in further detail within the Agreement itself, the key components of this Agreement are:

- The resolution of the above-identified ongoing regulatory proceedings without extended, contentious, and costly administrative and judicial litigation.
- PSNH's agreement to expeditiously pursue the divestiture of its generating plants after final decision by the Commission approving the settlement set forth in the agreement.
- Achievement of a number of important objectives, including:
  - o Protecting the economic interests of PSNH's electricity customers, with a focus on customer savings as well as long-term rate stabilization;
  - o Resolving long-standing issues regarding the restructuring of New Hampshire's electricity market;
  - o Taking advantage of a historically low-cost financing environment; and
- PSNH's agreement to forego recovery of \$25 million of previously deferred equity related to the Merrimack Station Scrubber.
- Financing of any stranded costs remaining after the divestiture sale and other costs using securitization bonds, taking advantage of low interest rates.
- Recovery of any remaining stranded costs via a Non-Securitized Stranded Cost charge.
- PSNH's agreement to forego the opportunity to file a general rate case with new rates effective prior to July 1, 2017.
- A requirement that the new owner(s) of the generating plants keep those plants in service for at least eighteen months after the date the new owner acquires the plant.
- Protections for the municipalities where the power plants are located, via three years of property tax stabilization payments if a plant sells for less than its assessed value.
- Comprehensive employee protections.
- A transition to a competitive procurement process for default service.

- Funding of \$5 million from Eversource shareholders to create a clean energy fund, and a commitment to work with interested parties to establish and implement increased energy efficiency savings and distributed energy investment targets..
- Continuation of PSNH's Reliability Enhancement Program, which targets improvements to grid reliability, resiliency, and automation.

This Agreement provides for substantial compromise by numerous parties as evidenced by the breadth of issues set out above, in the document itself and is expressly supported by the fourteen diverse Settling Parties. Given the Agreement's scope and the interests of those involved, it thoroughly demonstrates that that the settlement is just and reasonable and that it reflects the public interest.

#### **EXPEDITED TREATMENT AND PROPOSED PROCEDURAL SCHEDULE**

11. The Settling Parties acknowledge that the value of PSNH's facilities change in response to market factors such as the cost of fuel, the value of future generating capacity, changes in the demand for and supply of electricity, and other factors outside the control of PSNH. Similarly, the Settling Parties acknowledge that, at present, financial indices, and interest rates in particular, are favorable for the issuance of low-cost financing, but that such market conditions will not last indefinitely. Because the value of the facilities themselves and the value of the presently available low cost financing to customers may not last, the Settling Parties request that the Commission afford expedited treatment to its review of this Agreement.

12. To that end, the Settling Parties provide the below proposed procedural schedule as one that they mutually agree is reasonable and appropriate. The Settling Parties seek the Commission's approval and adoption of this procedural schedule and inclusion in an appropriate order of notice:

- June 15 – Issuance of an order of notice
- June 25 – Petitions for Intervention by parties not already intervenors, and initial statements of position by non-settling parties
- July 1 – Rate Changes, including those described below, take effect
- July 3 – Commission rulings on petitions for intervenor status
- July 8 – Settling Parties file testimony
- July 21 – Technical Session
- July 24 – Data Requests to Settling Parties Due
- August 7 – Data Responses from Settling Parties Due
- August 18 – Technical Session/Settlement Conference
- September 4 – Intervenor testimony Due
- September 14 – Data Requests to Intervenor Due
- September 28 – Data Responses from Intervenor Due
- October 1 – Technical Session/Settlement Conference
- October 7, 8 – Hearing on the Merits, if rebuttal testimony is not required.
- October 15 – Rebuttal Testimony from Settling Parties (if needed)
- November 9, 10 – Hearing on the Merits, if rebuttal testimony is required.
- By December 31, 2015 – Commission decision

13. The Settling Parties believe that the proposed schedule set forth above would permit sufficient time for the Commission to render its decision prior to the end of 2015, which would permit PSNH to begin the generation divestiture process in early 2016. Such a schedule would

make it more likely that PSNH can take advantage of the favorable economic conditions presently existing which would maximize value and minimize risk for the State, the Company and customers, as set forth in Laws 2014, 310:1.

14. The Settling parties request that following closure of Docket No. DE 14-238, the Commission open a docket with appropriate ongoing proceedings to address the administration of the divestiture auction, issuance of a finance order implementing RRBs, and calculation and reconciliation of the stranded costs recovery charge.

## **RATE ADJUSTMENTS**

15. As noted in the Agreement, the Settling Parties have agreed that it is reasonable and beneficial to continue funding PSNH's reliability enhancement program ("REP") as described in Docket No. DE 09-035.<sup>1</sup> Public Serv Co of NH, Order 25,123 (June 28, 2010) at 33. The Settling Parties agree that PSNH shall submit a filing reconciling the expenses and revenues relating to REP activities between April 1, 2013 and March 31, 2015 and shall include a forecast of activities for the period April 1, 2015 through June 30, 2016. The Settling Parties further agree that any rate change required to reconcile these amounts and account for the forecasted activities shall occur on July 1, 2015, and shall be subject to future reconciliation. PSNH's filing to implement this settlement term accompanies this submission. The Settling Parties mutually agree that continuation of the REP provides benefits to all PSNH customers and further agree that PSNH should continue implementation of the REP as detailed in the Agreement. In addition, the Settling Parties request that should the Commission not approve this Agreement, the Commission make provision for ensuring continued funding for PSNH's REP program in

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<sup>1</sup> The City of Berlin notes that it was not a party intervenor in Docket No. DE 09-035.

recognition of its benefits, as previously held in DE 09-035 (Where the Commission determined that "...ensuring the continued viability of the REP..." was reasonable). Id.

16. On July 1, 2015, the refund to customers required by Order No. 25,682 will expire. PSNH made a compliance filing on May 29, 2015, to adjust its rates to reflect the end of this refund period.

17. As noted in the Agreement, with the exception of the rate adjustments listed above, and any adjustments resulting from either major storms or exogenous events as those are defined in the Agreement, the Settling Parties agree that PSNH will not otherwise request a general adjustment to its distribution rates for effect prior to July 1, 2017. The Settling Parties request that, to the extent necessary, the Commission also approve the rate adjustments discussed above so as to ensure rate stability and continuity for customers.

18. The Settling Parties have also agreed to resolve cost recovery issues regarding the Merrimack Station "Scrubber" in the following manner. Effective January 1, 2016, PSNH shall begin recovery of all costs of the Scrubber incurred by it, along with its allowed return on those costs. The previously-deferred costs resulting from the temporary rate level shall be included in rates based upon an amortization period of seven years. Pursuant to RSA 125-O:18 and RSA 369-B:3-a, subsequent to divestiture of its generating assets, PSNH shall be allowed to recover through securitization financing all remaining Scrubber-related costs, including any remaining deferred equity return in excess of \$25 million in equity return which PSNH has agreed to

forego. Upon closing on the RRBs, all costs of the scrubber will be removed from Default Service.

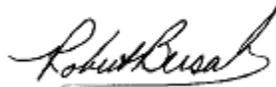
**WHEREFORE**, the Settling Parties respectfully request that the Commission:

- A. Accept, review and approve the 2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement on an expedited basis;
- B. Approve the procedural schedule as described herein;
- C. Grant the rate adjustments as identified herein; and
- D. Grant such further relief as is just and equitable.

Respectfully submitted,

The Settling Parties

By:



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## CERTIFICATE OF SERVICE

I hereby certify that June 10, 2015, I served an electronic copy of this filing upon each person identified on the Commission's service list for Docket Nos. DE 14-238; DE 11-250; and, DE 09-035 pursuant to Rule Puc 203.02(a).



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**SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED**

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**Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.**

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**FILING INSTRUCTIONS:**

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:**
- DEBRA A HOWLAND  
EXECUTIVE DIRECTOR  
NHPUC  
21 S. FRUIT ST, SUITE 10  
CONCORD NH 03301-2429
- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.**
- c) Serve a written copy on each person on the service list not able to receive electronic mail.**

**SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED**

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**Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.**

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21 S. FRUIT ST, SUITE 10  
CONCORD NH 03301-2429

**b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.**

**c) Serve a written copy on each person on the service list not able to receive electronic mail.**

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- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.**
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