

**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 2012
Docket No. DE 13-108

**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 chapter 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 as follows:

1. On May 9, 2013, PSNH filed its annual reconciliation of energy service and stranded costs for calendar year 2012. On May 15, 2013, the Commission issued an order of notice in the docket stating:

The filing raises, *inter alia*, issues related to 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 market purchases used to supplement those resources; the prudence and reasonableness of PSNH's incurred capital costs; and the question of whether PSNH has otherwise appropriately accounted 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 pre-hearing conference for June 13, 2013.

2. On June 10, 2013, CLF timely filed a petition to intervene seeking full intervenor status. CLF has not, however, demonstrated that its, or its members', rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding, nor that the

interests of justice justify its participation as required by RSA 541-A:32. Accordingly, its petition should be denied.

3. In Docket No. DE 12-116, the docket covering PSNH's reconciliation of energy service and stranded costs for 2011, the Commission clearly defined the scope and focus 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 2011. The reconciliation is necessary because PSNH is authorized to recover its "actual, prudent, and reasonable costs" of providing service as approved by the Commission. RSA 369-B:3, IV(b)(1)(A). Each December, the Commission establishes energy service and SCRC rates for PSNH customers based on a review of PSNH's estimates of what costs will be in the next twelve months. The reconciliation filings allow PSNH to compare its estimated revenues and expenses with those actually incurred for the prior calendar year, and either credit an over-recovery back to customers or include an under-recovery amount in rates. 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 PSNH's generation fleet, the Commission reviews the planned outages and associated power purchases to determine if 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, 2011 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.

...This docket involves a retrospective analysis of revenues and expenses associated with PSNH's stranded cost recovery and the power generation and supplemental power purchases for 2011. Likewise, environmental-compliance issues associated with the operation of PSNH's generation fleet are beyond the scope of this docket. (The New Hampshire Department of Environmental Services is responsible for enforcing environmental laws, including laws regulating air emissions).

Public Service Company of New Hampshire, Order No. 25,375 (June 18, 2012) at 4-5 (emphasis added). In its order the Commission made it quite plain that the purpose of these dockets is to review PSNH's revenues and expenses, and that to the extent there is a review of its generating plants, that review relates 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 a review of environmental issues relating to PSNH's generating plants.* The Commission was clear that a different agency is the place for such reviews, if they are to occur. Other than the year having changed, this docket is the same as that described in the Order No. 25,375.

4. Despite the Commission having made clear that these dockets are not for the review of environmental issues, in its petition to intervene CLF contends that the basis for its participation is for review of environmental issues relating to PSNH's generating plants.

Specifically, CLF states:

CLF, through its Clean Energy and Climate Change Program, represents the interests of its members in ensuring that environmental impacts resulting from the generation, production, distribution and/or use of electricity in New Hampshire and the region are minimized....

CLF and CLF's New Hampshire members have a direct and substantial interest in the outcome of this proceeding. Intervention will allow CLF to protect its members' substantial interests in the environmental and public health impacts resulting from PSNH's use of its generating resources and market purchases to supply its customers. The economic interests of CLF's New Hampshire members as ratepayers are also directly affected by this proceeding, including by the costs incurred by PSNH for its self-owned generating assets, which costs also implicate the environmental interests addressed above.

In this docket, the Commission must determine whether the decisions and resulting costs incurred by PSNH to supply energy service were prudently incurred. These issues raise important environmental concerns which, as set for the above, will affect the rights duties and privileges of CLF and its members.

CLF June 10, 2013 Petition to Intervene at 1-2 (emphasis added).

5. From its petition, it is clear that CLF's, and its members', interests in the docket relate to environmental issues, not the economic issues that the Commission has said are the purpose of these dockets. To the extent CLF is pursuing environmental issues, the Commission has made clear that it may not do so in these dockets, nor with this agency. In that CLF's stated interest is in environmental 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.
6. CLF does make passing reference to the costs incurred by PSNH and the economic interests of its members. Such passing reference, however, is insufficient to demonstrate any interest justifying its participation. As quoted above, CLF itself clearly states in the first paragraph of its petition that the way it represents the interests of its members is in ensuring that environmental impacts resulting from electricity generation and distribution are minimized. Thus, its representation of its members is premised upon their concern for specific environmental issues, rather than economic issues. Further, CLF states that in reviewing the prudence of PSNH's decisions and the resulting costs, those issues "raise important environmental concerns" and "implicate the environmental interests addressed above." CLF Petition to Intervene at 2. Thus, CLF views matters of PSNH's revenues and expenses as a mere gateway to a discussion of environmental issues. As the basis for CLF's participation on behalf of itself and its members is rooted in concerns over environmental issues, rather than the issues the Commission will actually review in this docket, CLF has not demonstrated any interest justifying its intervention on behalf of

itself or its members. Moreover, 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 issues beyond the scope of this docket there is nothing in CLF's petition that provides a basis for it to intervene.

7. 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 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 13, 2013
Date

By: 
Matthew J. Fossum
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 13, 2013
Date


Matthew J. Fossum