

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DE 14-238

Determination Regarding PSNH's Generation Assets

Intervener Terry Cronin Requests the Commission to Take Administrative Notice of Certain Documents at the Merit Hearing of this Case in accordance with Puc 203.31

The Request will include the March 31, 2014, PSNH Generation Asset and PPA Valuation Report and August 2015 Update Prepared by LaCapra Associates, Inc. and the October 26, 2015, Deposition of LaCapra Witnesses Richard Hahn and Daniel

Koehler

Procedural History

In docket IR 13-020, the Commission, by Order of Notice dated January 18, 2013, announced an investigation of the market conditions affecting the default service of Public Service Company of New Hampshire (PSNH). The Order asked that the investigation examine how PSNH proposes to maintain safe and reliable service at just and reasonable rates in light of those market conditions. The Order of Notice also stated that the investigation would explore the impact, if any, of PSNH's continued ownership and operation of generation facilities on the competitive electric market in New Hampshire. The Commission, at pages 4-5 of its Order of Notice, required that the investigation analyze the impacts on default service rates of the scrubber costs being examined in DE 11-250 and the Burgess BioPower power purchase agreement.

On July 15, 2013, the Commission, in Order 25,545, ordered, on page 6, that Commission Staff engage, through a competitive bidding process, a valuation expert to determine the value of PSNH's generation assets and entitlements to help inform any adjudicatory or legislative analysis of divestiture, possible stranded costs and their rate impacts.

LaCapra Associates, Inc. Boston, Massachusetts, was the valuation expert retained by Staff.

On April 1, 2014, the March 31, 2014, LaCapra PSNH Generation Asset and PPA Valuation Report (Report) was entered in the docket IR 13-020 at item 25.

On October 26, 2015, LaCapra witnesses Richard Hahn and Daniel Koehler were deposed in docket DE 14-238, the instant docket. The deposition transcript is filed at item 151. The LaCapra Report and the August 2015 Update were identified as exhibits during the deposition¹

On October 29, 2015, intervener Terry Cronin, in writing, requested that Staff provide the data relied upon by LaCapra to develop its Report. (Exhibit 1 attached hereto, docket item 149). Staff has not provided the requested information.

Memorandum in Support of Intervener Cronin's Request that the Commission Take

Puc 203.27 Administrative Notice of the LaCapra Reports

1. The LaCapra Reports are material evidence that support the central theme of the Cronin intervention.

Merrimack Station became uneconomic to operate during the construction of the scrubber project and that it was a management failure to continue the project in spite of the cost over runs. The LaCapra Reports are evidence that PSNH management knew or should have known that Merrimack Station had become uneconomic to run before the scrubber project was complete.

The LaCapra Report dated March 31, 2014, **just over 2 years after** PSNH claimed that the scrubber was used and useful, **projected that the Merrimack Station value as of January 1,**

¹ The LaCapra Reports, including the August 2015 Update were not filed with the deposition transcript.

2015, using a discounted cash flow (DCF) methodology, at **zero**. (See Table 15: Merrimack Station DCF Results Summary [2014\$], page 69 of the Report).²

2. *The PSNH data that LaCapra used to render the Merrimack Station **appraisal of zero** and the Report itself should have informed the “Settling Parties” before the Settlement was reached that spending upwards of \$500,000,000 at Merrimack Station was very wrong, that poor management decisions had been made.*

*The March 31, 2014, LaCapra Report should have informed the “Settling Parties” and non-advocate Staff that the PSNH decision to opt out of a final scrubber project prudence decision and to seek an “expedited” divestiture that something was very wrong with the economics of Merrimack Station.*³

The data and LaCapra Report should have informed the “Settling Parties” and non-advocate Staffs’ testimony.

Intervener Cronin squarely presented the issue of the economic viability of Merrimack Station in relation to the scrubber project in his Petition for Intervention. At paragraph 6 of his Petition, Intervener Cronin reminded the Commission that in 2008, PSNH promised the Commission “...that following the installation of the scrubber, Merrimack Station will continue to be a vital base-load source for reliable and affordable power to our customers...”, a promise that PSNH did not keep.

At paragraph 7 of his Petition, Intervener Cronin reminded the Commission that the “Settling Parties” have “ignored PSNH’s management failures. Intervener Cronin points out that the scrubber legislation was instituted at the behest of PSNH itself, that the project “was fraught with foreseeable trouble and that PSNH failed to use ordinary skill in the management of Merrimack Station”.

² LaCapra had access to PSNH historical data, both from PSNH and FERC, including projections relating to plant operating characteristics, heat rates, variable O&M, O&M costs going forward and capital investments. (Deposition transcript, pages 100-103). Deponent Hahn testified that the LaCapra ISO-NE market simulation began on January 1, 2013, (deposition, page 75) suggesting some years of historical PSNH data.

³ PSNH filed its Motion to Stay in DE 11-250 on December 26, 2014, just 9 months after the LaCapra Report was filed publically.

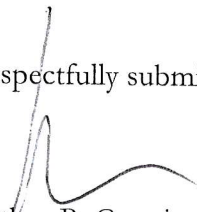
The LaCapra Report supports Intervener Cronin's intervention and testimony.

Wherefore, Intervener Cronin respectfully requests that the Commission take Puc

203.27 administrative notice of the LaCapra Reports and deposition.

1/21/16

Respectfully submitted,


Arthur B. Cunningham

Bar # 18301

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Certificate of Service

I filed and served notice of this filing pursuant to Puc 203.11.

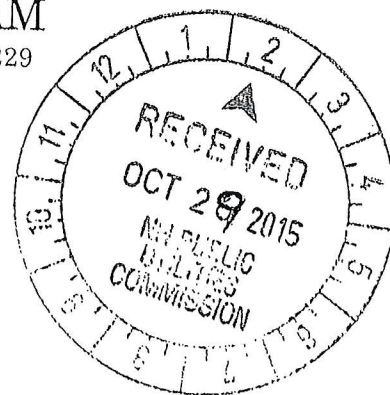

Arthur B. Cunningham

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LAW OFFICES
ARTHUR B. CUNNINGHAM
79 Checkerberry Lane, Hopkinton, NH 03229

October 27, 2015

Alexander F. Speidel
Staff Attorney/Hearings Examiner
New Hampshire Public Utilities Commission
21 Fruit Street, Suite 10
Concord, NH 03301-2429



Re: Public Service Company of New Hampshire, DE 14-238, LaCapra document request

Dear Alex:

On behalf of my client, Intervener Terry Cronin, I request, as a sequel to the October 26, 2015, LaCapra deposition, the following documents as identified by the LaCapra witnesses:

1. Each and every document described in the March 31, 2014, PSNH Generation Asset and PPA Valuation Report (Report) at page 2, second full paragraph and described: "We relied heavily on PSNH data and projections related to plant operating characteristics, costs and revenues". Should LaCapra claim any such documents are confidential; the document should be identified with specificity together with the basis for the confidentiality claim.

2. The Report at page 2, second full paragraph, states: "PSNH did not offer...its own recent valuation study." The testimony at the deposition was that there was no "recent valuation study".

Please request that LaCapra produce each and every document that confirms that there was no such study. If LaCapra claims they have no such documents, please have them provide a written explanation for the phrase in the Report referring to such valuation study.

3. The Report, at page 68-69, states that LaCapra conducted a DCF Valuation Analysis. At paragraph 10.1, the Report states that the analysis was conducted using EBITDA. The Report concludes that the "EBITDA was not only insufficient to support ongoing financing expenses and additional capital expenditures; it is negative for most of the remaining life. In five of our six scenarios, projected cash flow for plant is insufficient to provide a reasonable internal rate of return at any price, so the DCF value is zero."

Please request that LaCapra produce each and every document received from PSNH used as inputs in the EBITDA calculation. Should LaCapra claim any such documents are confidential; the document should be identified with specificity together with the basis for the confidentiality claim.

You should particularly notice that the appraisal Report is dated March 31, 2014. In DE 11-250, PSNH testified that the scrubber became "used and useful" in the fall of 2011. The Commission, based on that testimony, granted the temporary rate bump to pay for the scrubber in April, 2012.

The significant point here: PSNH spent in excess of \$400,000,000 for a project at a plant that, just over two years after the company claimed the project was useful, was valued at zero.

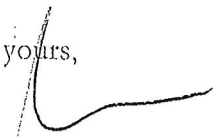
EXHIBIT

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The question, at bottom, is when Merrimack Station became uneconomic to operate. This question goes to the heart of the missing scrubber prudence determination.

The production of the requested LaCapra documents will assist the parties and the Commission in making a decision whether the Settlement Agreement is in the public interest.

Very truly yours,



Arthur B. Cunningham

Cc: Service list