

THE STATE OF NEW HAMPSHIRE

before the

PUBLIC UTILITIES COMMISSION

Public Service Company of New Hampshire

Docket No. DE 14-238

Objection of Public Service Company of New Hampshire

to

Motion to Compel of Terry Cronin

Pursuant to Puc 203.07(e), Public Service Company of New Hampshire d/b/a Eversource Energy ("PSNH" or "Eversource" or the "Company") hereby objects to intervenor Terry Cronin's Motion to Compel ("Motion") dated August 19, 2015.

In support of this Objection, PSNH states as follows:

1. The purpose of this proceeding is to review the "2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement" (2015 Settlement Agreement) pursuant to the requirements of 2015 N.H. Laws, Chapter 221 (SB 221), "an act relative to electric rate reduction financing." See June 26, 2015 Supplemental Order of Notice in Docket No. DE 14-238 at 1. Such review is required to be performed in an "expedited proceeding." ("Before January 1, 2015, the commission shall commence and expedite a proceeding... ." 2014 N.H. Laws 310:2, amending RSA 369-B:3-a, I. "As part of an expedited proceeding, the commission shall review the 2015 settlement proposal... ." 2015 N.H. Laws 221:10, amending RSA 369-B:3-a, II.)

2. In accordance with the procedural schedule adopted by the Commission on July 14, 2015, PSNH submitted its prefiled testimony on July 6, 2015, and on July 29th Mr. Cronin propounded 8 numbered discovery questions to the Settling Parties (7 to PSNH and 1 to the Settling Parties generally). Pursuant to Puc 203.09 (g), on August 3, 2015, PSNH timely served Mr. Cronin with objections to a number of his questions. A copy of PSNH's "Objections to Data Requests of Terry Cronin" is attached hereto as Attachment 1. That objection also included the Settling Parties' joint objection to the one question propounded on all the Settling Parties. Due to an errant email, good-faith discussions pursuant to Puc 203.09(i)(4) took place subsequent to the filing of the Motion. That interchange revealed that contrary to the statements in the Motion, PSNH had in fact provided timely responses to Mr. Cronin's questions 4

and 5. Thus, those questions will not be addressed in this Objection. Mr. Cronin filed his Motion to Compel responses to the remaining questions (1, 2, 3, 6, 7, and Settling Parties 1).

3. Rather than repeat the substantive bases for PSNH's objections, other than to note that the questions of Mr. Cronin that are the subject of PSNH's and the Settling Parties' objections are neither relevant nor material to the Commission's review of the 2015 Settlement Agreement, the contents of PSNH's "Objections to Data Requests of Terry Cronin" are incorporated herein, and PSNH will only further address items included by Mr. Cronin in his Motion that were not included in its referenced "Objections."

4. The 2015 Settlement Agreement is a comprehensive settlement of myriad issues intended to resolve on-going litigation and complete the implementation of a long-standing state policy, as well as to resolve the issues identified in the 2014 law concerning PSNH's ownership of generating assets. Resolution of issues via settlement was an express desire of the Legislature. As set forth in 2014 N.H. Laws 310:1, the "Purpose" section of that law: "The purpose of allowing 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 should be to . . . promote the settlement of outstanding issues involving stranded costs... ."

5. Mr. Cronin seeks to up-end the settlement process that by statute the Legislature expressly promoted by seeking to reopen myriad dockets to which he never sought intervenor status, *i.e.*, Docket No. DE 08-145, "Investigation into Modifications to Merrimack Station" and Docket No. DE 11-250, "Investigation of Scrubber Costs and Cost Recovery." Had Mr. Cronin desired to question matters relating to the installation of a new turbine at Merrimack Unit 2 or relating to the Scrubber, he could have, and should have, participated in their respective dockets during the multiple years they were open and active.

6. Mr. Cronin claims that a precondition to any settlement is a requirement that the Commission has ruled on all of the underlying issues.¹ That is not the law, nor does it reflect how settlement processes work. 2014, 310:1 expressly promotes "the settlement of **outstanding issues** involving stranded costs." Issues decided via a final order of the Commission as deemed necessary by Mr. Cronin would no longer be "outstanding" and thus not appropriate for settlement. "[W]e must look to the language of the statute itself as the prime determining factor in its interpretation. Where the language of the statute is plain and unambiguous the statute must be given effect according to its plain and obvious meaning. 82 CJS, Statutes § 322 (1953). The legislature must be presumed to know the meaning of words, and to have used the words of a statute advisedly 73 Am Jur 2d Statutes § 196 (1974)." *Public*

¹ See *e.g.*, Motion at p 2, "The Commission cannot issue an Order compliant with the legislative mandate without a quantification of the costs of the scrubber." Motion at fn. 3, "The Commission, in that docket, never rendered findings of fact on the costs of the scrubber." Motion at p. 3, "His assertion that the scrubber cost was \$422,000,000 has not been adjudicated by the Commission as fact. His claim that the scrubber was used and useful in September, 2011, has not been adjudicated by the Commission as fact." Motion, p.4, "[T]he Commission has not made the prudence determination required by RSA 125-O: 18."

Service Company of New Hampshire, 64 NH PUC 295, 289-90 (1979), quoting from *Ahern v. Laconia Country Club Inc.*, 118 NH 623, 624-25 (1978).

7. Moreover, Senate Bill 221 expressly anticipated that the Commission would review the 2015 Settlement Agreement and provides the Commission the authority to do so, notwithstanding Mr. Cronin's arguments to the contrary. The Legislature's "Amended Analysis" included with S.B. 221 states, "This bill permits the public utilities commission to issue finance orders that authorize the issuance of certain rate reduction bonds in accordance with the 2015 settlement proposal... ." Similarly, 2015; 221:1 amended RSA 369-B:1 by including a new subparagraph XVI:

It is in the public interest for the commission to issue a finance order that is subject to the requirements of this chapter and that securitizes any stranded costs resulting from the divestiture of all or some of PSNH's generation assets, if the commission approves the 2015 settlement proposal or otherwise orders divestiture of all or some of PSNH's generation assets.

And, at 2015, 221:10, repealing and replacing RSA 369-B:3-a, the Legislature said: "As part of an expedited proceeding, the commission shall review the 2015 settlement proposal and determine whether its terms and conditions are in the public interest." Clearly, the Legislature has signaled that the Commission has the obligation to review, and the authority to approve, the 2015 Settlement Agreement and further intends that the Commission move forward with its review expeditiously and not re-visit or litigate to finality dockets past.

8. PSNH believes that virtually all settlements occur before there are decisions made on the underlying issues. Once a final decision is rendered, what is there to settle? The Commission itself has recognized that settlements need not await final decisions: "Rather than insisting that any stipulation match the relief that the Commission would have ordered had the matter proceeded to final decision, we will approve stipulated settlements so long as we are satisfied on balance that the settlement promotes the public interest." *Re Generic Investigation into Intralata Toll Competition Access Rates*, 78 NH PUC 283, 284 (1993).

9. Mr. Cronin asserts that the testimony of PSNH's President "obscures the facts and demonstrates a lack of candor." Motion, p. 3. PSNH rejects such accusations out of hand. Similarly, PSNH will not respond to Mr. Cronin's assertions that the Settlement is "a political deal" and that the OCA "appeared consumed by the powerful politics of the 'Settlement Agreement' process... ." Motion, p. 7.

WHEREFORE, PSNH respectfully requests that this Commission deny Mr. Cronin's "demand" that his Motion to Compel be granted. (Motion, p. 8.)²

Respectfully submitted this 21st day of August, 2015.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

By:  _____

Robert A. Bersak
Chief Regulatory Counsel
Robert.Bersak@Eversource.com

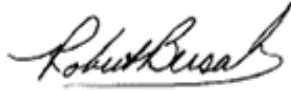
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Manchester, New Hampshire 03105-0330

² In his closing "demand," Mr. Cronin also seeks "relief under RSA 365:38-a." Because Mr. Cronin has failed to address the statutory requirements set forth in that statute, PSNH will not address this request for relief. See "ORDER ON REQUEST FOR INTERVENOR COMPENSATION" in Docket No. DE 99-099, 89 NH PUC 466 (2004).

CERTIFICATE OF SERVICE

I hereby certify that on August 21, 2015, I served an electronic copy of this filing with each person identified on the Commission's service list for this docket pursuant to Rule Puc 203.02(a).

A handwritten signature in black ink, appearing to read "Robert Bersak", is positioned above a horizontal line.

Robert A. Bersak
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ATTACHMENT 1

PSNH's "Objections to Data Requests of Terry Cronin"



780 N. Commercial Street
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Robert A. Bersak
Chief Regulatory Counsel

603-634-3355
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August 3, 2015
Via E-Mail and U.S. Mail

Mr. Terry Cronin
643 Briar Hill Road
Hopkinton, NH 03229

Re: NHPUC Docket No. DE 14-238
Objections to Data Requests of Terry Cronin

Dear Mr. Cronin:

On July 29, 2015, you submitted discovery questions to PSNH in the above-captioned docket. Pursuant to Rule Puc 203.09(f), PSNH objects to a number of your questions for the reasons set forth below. In addition, the Settling Parties jointly object to your second question number 1 for the reasons specified below.

PSNH OBJECTIONS

1. Please provide a detailed listing of all costs, together with a detailed description of the purpose of the costs, associated with the installation and operations of the wet flue desulphurization project (Scrubber) project at Merrimack Station located in Bow, New Hampshire, that PSNH seeks to recover as stranded costs. Did these project costs that you identified increase the generating capacity of Merrimack Station and if yes, by how much? Please indicate the date and accounting entries for how these costs were booked to the PSNH balance sheet, income statement and cash flow statements by month.

PSNH objects to Q-Cronin-1 based upon relevance and materiality. The information sought is beyond the scope of this proceeding, and was included and examined by the Commission as part of Docket No. DE 11-250. Moreover, the question will not reveal information material to this proceeding. *See* RSA 541-A:33, "the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence." To the extent that Mr. Cronin wishes to examine these costs and accounting details, they may be found at: <http://puc.nh.gov/Regulatory/Docketbk/2011/11-250.html>

2. Please provide a detailed listing of all costs associated, together with a detailed description of the purpose of the costs, with the Capitalized Projects as well as the Projects Charged to Operation and Maintenance for the Merrimack Unit 2 during the major unit inspection outage that began on April 1, 2008 and ended on May 22, 2008. SEE Docket No. DE 08-145, Data Request TS-01, Dated: 02/09/09, Q-STAFF-002. Did these project costs that you identified increase the generating capacity of Merrimack Station and if yes, by how much? Please explain whether PSNH seeks or sought to recover these expenses as stranded costs. If considered stranded costs by PSNH, then please indicate the date and accounting entries for how these costs were booked to the PSNH balance sheet, income statement and cash flow statements by month.

PSNH objects to Q-Cronin-2 based upon relevance and materiality. The information sought is beyond the scope of this proceeding, and was included as part of Docket No. DE 08-145 and was examined by the Commission in reaching its decision in that docket (add cite to order here). Moreover, the question will not reveal information material to this proceeding. *See* RSA 541-A:33, "the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence." To the extent Mr. Cronin wishes to examine these costs he may refer to:

<http://puc.nh.gov/Regulatory/Docketbk/2008/08-145.htm>

3. Please provide a detailed listing of all legal costs associated with Docket No. DE 14-238, Determination Regarding PSNH's Generation Assets and Docket No. DE 11-250, Investigation of Scrubber Costs and for any civil actions related to the matters in these dockets that PSNH has recovered or seeks to recover from ratepayers

PSNH objects to Q-Cronin-3 based upon relevance and materiality, and because the question requires speculation. Legal costs of the instant docket (DE 14-238) will not be known until the proceeding has been completed, and any estimate of such legal costs would require speculation regarding the outcome of this proceeding, potential rehearing proceedings, judicial appeals, and the like. The information sought relating to Docket No. DE 11-250 is beyond the scope of this proceeding and because the docket is still open those costs cannot be finally determined. Moreover, the question will not reveal information material to this proceeding. *See* RSA 541-A:33, "the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence."

6. Please provide the actual power consumption of the Scrubber in megawatts by year since 2009.

PSNH objects to Q-Cronin-6 based upon relevance and materiality. The actual power consumption of the Scrubber in megawatts has no relevance to the scope of this proceeding. Moreover, the question will not reveal information material to this proceeding. *See* RSA 541-A:33, "the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence."

7. Please explain the changes in resource capabilities at Merrimack Station (1 and 2) by year since 2009 as detailed on the attached excel spreadsheet (TC-1).

PSNH objects to Q-Cronin-7 based upon relevance and materiality. Any changes in resource capabilities at Merrimack Station have no relevance to the scope of this proceeding. Moreover, the question will not reveal information material to this proceeding. See RSA 541-A:33, "the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence."

JOINT OBJECTION OF SETTling PARTIES

1. Please provide a record by year of any settling party donations or in-kind contributions made to any other settling party involved in this case since Electric Utility Restructuring of 1999.

PSNH and the other Settling Parties jointly object to the second Q-Cronin-1 which was addressed to all of the Settling Parties, based upon relevance and materiality, and because information related to the question is publically available. The nature and extent of any donations or contributions made by or between the Office of Energy and Planning, Designated Advocate Staff of the New Hampshire Public Utilities Commission, the Office of Consumer Advocate, New Hampshire District 3 Senator Jeb Bradley, New Hampshire District 15 Senator Dan Feltes, the City of Berlin, New Hampshire, Local No. 1837 of the International Brotherhood of Electrical Workers, the Conservation Law Foundation, the Retail Energy Supply Association, TransCanada Power Marketing Ltd., TransCanada Hydro Northeast Inc., New England Power Generators Association, Inc., the New Hampshire Sustainable Energy Association d/b/a NH CleanTech Council, Public Service Company of New Hampshire d/b/a Eversource Energy and Eversource Energy over the past sixteen year period has no relevance to the scope of this proceeding. Moreover, the question will not reveal information material to this proceeding. See RSA 541-A:33, "the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence." In addition, political contributions, if any, are reported publically as required by relevant state and federal campaign laws.

Thank you for your consideration of these objections. If you have any questions, please let me know.

Sincerely,



Robert A. Bersak
Chief Regulatory Counsel

cc: Service List, per Rule Puc 203.09(d), via email.