

**THE STATE OF NEW HAMPSHIRE**

**before the**

**PUBLIC UTILITIES COMMISSION**

Public Service Company of New Hampshire

Determination Regarding PSNH's Generation Assets

Docket No. DE 14-238

**OBJECTION OF PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE**

**TO**

**"MOTION OF THE NEW ENGLAND POWER GENERATORS ASSOCIATION, INC.**

**AND THE RETAIL ENERGY SUPPLY ASSOCIATION**

**TO ALLOW ADDITIONAL DISCOVERY AND SUPPLEMENTAL OR AMENDED TESTIMONY"**

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 the "Motion of the New England Power Generators Association, Inc. and the Retail Energy Supply Association to Allow Additional Discovery and Supplemental or Amended Testimony" (the "Motion") filed October 1, 2015, wherein the Movants ask "for leave for parties to the proceeding to conduct additional discovery on all settling parties in Docket 14-238 and for leave to supplement or amend its pre-filed testimony if necessary until November 5, 2015 to ensure that all issues are appropriately presented to the Commission."

In support of this Objection, PSNH states:

1. On June 10, 2015, the "2015 PSNH Restructuring and Rate Stabilization Agreement" ("Settlement") was filed with the Commission by PSNH and over a dozen other Settling Parties, including the New England Power Generators Association, Inc. ("NEPGA") and the Retail Energy Supply Association ("RESA"). NEPGA and RESA joined the Settlement voluntarily and had ample ability and opportunity to review all of the terms of that Settlement prior to signing on.
2. NEPGA and RESA claim that the relief they seek is necessary so that they can investigate a potential power purchase agreement ("PPA") being negotiated between PSNH and Hydro-Québec. In particular, the Movants state that "additional discovery is required in order to explore further (1)

whether the PPA violates the express terms of the Settlement Agreement; (2) the impact, if any, of the PPA on the Settlement Agreement; and (3) whether it is necessary for NEPGA and RESA to supplement or amend its previously filed joint testimony.” Motion at ¶4.

3. The parties have had several opportunities to discuss the underlying PPA issue with PSNH. In fact, NEPGA and RESA themselves raised the PPA issue and PSNH responded to questions during the Technical Session in this proceeding held on August 20, 2015. During those discussions, PSNH has:

--already provided details regarding the status of a PPA to all of the parties;

--already informed all of the parties that a PPA with Hydro-Québec is still a work-in-progress and that no PPA has been finalized;

--already informed all of the parties that if and when a PPA was finalized, it will be filed for review/approval with the PUC in an appropriate docket per RSA 374:57, and that any party that has an interest in that matter could petition to participate in that proceeding per the PUC's rules;

--already informed all of the parties that if a PPA was finalized, and if that PPA was to be approved by the Commission, it would NOT be used to supply default energy service but would be monetized by selling the entitlement back into the market with the monetary benefits flowing to customers to mitigate stranded costs;

--already informed all of the parties that the methodology set forth in the Settlement for obtaining default energy service post-divestiture would NOT be impacted by any PPA with Hydro-Québec;

--noted that nothing in the Settlement prohibits or eliminates the obligation for PSNH to continue to take prudent actions as a utility operating in New Hampshire, including, e.g., compliance with RSA 378:37 (“The general court declares that it shall be the energy policy of this state to meet the energy needs of the citizens and businesses of the state at the lowest reasonable cost while providing for the reliability and diversity of energy sources”) and RSA 374-F:3, XII, (c) (“Utilities have had and continue to have an obligation to take all reasonable measures to mitigate stranded costs.”)

4. Upon executing the Settlement, NEPGA and RESA agreed to the following contractual duty in Article XII,D of the Settlement:

The Settling Parties agree to support this Agreement before the Commission and in any

related legal proceedings or legislative inquiries or hearings to oppose legislation inconsistent with this Agreement, and to take all such action as is necessary to secure approval and implementation of the provisions of this Agreement.

NEPGA and RESA initially abided by that duty by filing supportive testimony on July 17, 2015. Now, however, contrary to both the Settlement obligation quoted above as well as their status in this docket as “Settling Parties,” by their Motion NEPGA and RESA have asked for leave to propound data requests on their fellow Settling Parties and to file supplemental or amended pre-filed testimony.

5. On July 9, 2015, both NEPGA and RESA joined in a Stipulation with Non-Advocate Staff and the other parties agreeing to a procedural schedule. That procedural schedule, adopted by the Commission per a Secretarial Letter dated July 14, 2015, calls for:

Eversource files testimony	July 6, 2015
Prehearing Conference followed by Technical Session	July 9, 2015 at 9:00 a.m.
Remaining Settling Parties file Testimony	July 17, 2015
Data Requests to Settling Parties	July 29, 2015
Data Responses from Settling Parties	August 12, 2015
Technical Session/Settlement Conference	August 20, 2015 at 9:00 a.m.
Technical Session Data Responses	September 1, 2015
Non-Advocate Staff and Intervenor Testimony	September 18, 2015
Data Requests to Non-Advocate Staff and Intervenors	October 2, 2015
Data Responses from Non-Advocate Staff and Intervenors	October 16, 2015
Technical Session/Settlement Conference	October 22, 2015 at 9:00 a.m.
Rebuttal Testimony (if any) by Settling Parties	November 5, 2015
Settlement Conference	November 9, 2015 at 9:00 a.m.
Hearing on the Merits	November 16-17, 2015

The date for the filing of Testimony by Settling Parties was July 17; the date for Non-Settling Parties’ testimony was September 18. The date for Data Requests to Settling Parties was July 29; the date for Data Requests to other parties was October 2. NEPGA and RESA seek leave to upset this expedited and carefully crafted schedule by seeking “leave for parties to the proceeding to conduct additional discovery on all settling parties” and “leave to supplement or amend its pre-filed testimony.”

6. The Commission should not interject itself into the midst of a disagreement between Settling Parties. If NEPGA and/or RESA are unhappy with their continued participation in the Settlement as Settling Parties, they should withdraw from it. Unless and until they make that decision to withdraw

from the Settlement, however, they each remain a “Settling Party” and are bound to the obligations of the Settlement that they willingly took on and the terms of the Procedural Schedule that they agreed and stipulated to.

7. If NEPGA and/or RESA choose to withdraw from the Settlement, they should be required to take the procedural schedule as it stands, and not be allowed to interfere with “the orderly and prompt conduct of the proceedings.” RSA 541-A:32. Such interference is especially detrimental to this proceeding, where the Legislature – not once, but twice, in separate enactments – has directed the Commission as a matter of law to expedite its adjudication. See 2014 N.H. Laws, 310:2, amending RSA 369-B:3-a (“I. Before January 1, 2015, ***the commission shall commence and expedite*** a proceeding to determine whether all or some of PSNH’s generation assets should be divested.”); 2015 N.H. Laws, 221:10, repealing and reenacting RSA 369-B:3-a (“II. ***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.”)

8. Contrary to the Movants’ assertions in their Motion, the granting of their request will cause undue burden on parties to the proceeding and will likely cause judicial delay. As previously noted, NEPGA and RESA raised questions and received responses from PSNH regarding a PPA during the August 20<sup>th</sup> Technical Session; yet, despite the fact that this proceeding is required by law to proceed on an expedited basis they waited six weeks to file the instant Motion. Granting the Movants’ request to conduct additional discovery and then to file testimony not as rebuttal from “Settling Parties” but as non-settling Intervenors could necessitate a need for additional discovery on that testimony. The Settling Parties, as the “petitioners” in this proceeding, bear the burden of proof. Puc 203.25. Discovery prior to the filing of Rebuttal Testimony (presently scheduled for November 5) is a due process right that must be afforded if requested to allow the Settling Parties the ability to meet their burden.

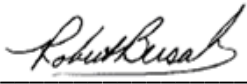
9. Most significantly, the relief requested by the Movants is unnecessary. The underlying issue is not relevant to this proceeding. As noted earlier, no PPA exists between PSNH and Hydro-Québec. If a PPA is ever agreed to, per RSA 374:57 that PPA would be filed with the Commission for its review and approval “at the time such agreement is executed” and issues including whether any such PPA is in the interest of customers or is consistent with the Settlement may be aired in that proceeding. Unless and until a PPA actually is agreed to and filed with the Commission, granting the Motion to allow discovery

on a PPA that does not exist would accomplish nothing but delay.

**WHEREFORE**, PSNH respectfully requests that this Commission deny the Motion of NEPGA and RESA.

Respectfully submitted this 7<sup>th</sup> day of October, 2015.

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE**

By: \_\_\_\_\_

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# **CERTIFICATE OF SERVICE**

I hereby certify that on October 7, 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).



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