

ORIGINAL

N.H.P.U.C. Case No. DE 11-184

Exhibit No. #9

Witness Panel #1

DO NOT REMOVE FROM FILE

DE 11-184

Joint Petition for Approval of Power Purchase Agreements and Settlement Agreement

Public Utilities Commission Staff Advocates' Response to  
Staff's Data Requests to Joint Petitioners – Set 2

Date Received: September 21, 2011

Date of Response: September 28, 2011

Request No.: Staff to PSNH and Staff Advocates 2-7

Witness: Thomas C. Frantz

**Request:**

Reference PSNH and Staff Advocates' responses to Staff 1-8 regarding the question of whether the proposal for the transfer of the \$8.5 million of costs from PSNH's energy service rate to its distribution rate is intended to be temporary or permanent: How do PSNH and Staff Advocates reconcile their responses, which appear to be inconsistent with one another? Or, on this issue, are PSNH and Staff Advocates presenting two alternative ratemaking methodologies for consideration by the Commission?

**Response:**

Both Staff Advocates and PSNH support the Joint Petition and are striving to achieve approval thereof by the Commission. In response to Question Staff 1-8, Staff Advocates responded that the transfer of the \$8.5 million of costs from PSNH's energy service rate to its distribution rate "was not intended to be permanent," and PSNH responded "The duration of the transfer should be permanent." Staff Advocates' response states the intention of the Joint Petitioners regarding the requested ratemaking methodology.

Staff Advocates believe that the seemingly inconsistent responses to Question Staff 1-8 are in fact consistent but place varying degrees of emphasis on the potential effect of approval of the ratemaking allocation and transfer proposed in the Joint Petition, in light of the Commission's holding in Order No. 25,256 issued on July 26, 2011 in Docket No. DE 10-160. In that Order the Commission held in part:

Shifting costs that are clearly and directly related to generation used to provide default service from the default ES rate to the distribution rate or a new charge imposed upon all customers would also be contrary to RSA 369-B:3, IV(b)(1)(A), which provides that "[t]he price of such default service shall be PSNH's actual, prudent, and reasonable costs of providing such power.

Staff Advocates believe this holding means that costs that are clearly and directly related to generation used to provide default service must remain in the ES rate, if actual, prudent and reasonable. By contrast, costs that are not clearly and directly related to generation used to provide default service may be subject to allocation to distribution, transmission or ES rates. The Joint Petition seeks allocation to distribution rates of uncollectible and certain administrative expenses, in the liquidated amount of \$8.5 million per year, until the full amount of the above-market costs of the Wood IPP power purchase agreements has been recovered through the ES rate. These uncollectible and administrative expenses are indirect expenses which are typically allocated among different business activities of a utility such as PSNH.

Staff Advocates believe the proposed re-allocation of these costs to distribution is reasonable and justifiable, and is consistent with Order No. 25,256 because these costs are not clearly and directly related to generation used to provide default service. In particular, as noted in PSNH's response to Question Staff 1-8, these costs "do not correlate with the quantity of energy service provided...."

Given the foregoing, Staff Advocates believe the Commission may approve the transfer required under the Joint Petition's ratemaking methodology.

Staff Advocates' response to Question Staff 1-8 emphasizes the temporary effect of the ratemaking treatment sought for approval in the Joint Petition, because the purpose for requesting the adjustment will end when any over-market element of the PPAs is recovered through ES rates.

Witness: Richard C. Labrecque  
Request from: New Hampshire Public Utilities Commission Staff

**Question:**

Reference PSNH and Staff Advocates' responses to Staff 1-8 regarding the question of whether the proposal for the transfer of the \$8.5 million of costs from PSNH's energy service rate to its distribution rate is intended to be temporary or permanent: How do PSNH and Staff Advocates reconcile their responses, which appear to be inconsistent with one another? Or, on this issue, are PSNH and Staff Advocates presenting two alternative ratemaking methodologies for consideration by the Commission?

**Response:**

Both Staff Advocates and PSNH support the Joint Petition and are striving to achieve approval thereof by the Commission. In response to Question Staff 1-8, Staff Advocates responded that the transfer of the \$8.5 million of costs from PSNH's energy service rate to its distribution rate "was not intended to be permanent," and PSNH responded "The duration of the transfer should be permanent." PSNH believes that these seemingly inconsistent responses to Question Staff 1-8 result from varying interpretations of both the underlying question and of Order No. 25,256 issued by the Commission on July 26 in Docket No. DE 10-160.

Staff's response correctly denotes the intention of the parties when the ratemaking methodology was first agreed upon during the negotiating process. However, subsequent to that agreement, and prior to the time when responses to Staff data request set 1 were due, the Commission issued Order No. 25,256.

In that Order the Commission held in part:

Shifting costs that are clearly and directly related to generation used to provide default service from the default ES rate to the distribution rate or a new charge imposed upon all customers would also be contrary to RSA 369-B:3, IV(b)(1)(A), which provides that "[t]he price of such default service shall be PSNH's actual, prudent, and reasonable costs of providing such power.

PSNH read this holding to mean that, by statute, costs related to the provision of energy service must remain in the ES rate. Under the Company's interpretation of Order 25,256, the ratemaking methodology proposed in the Joint Petition could only be approved by the Commission under current statute if the underlying costs being transferred out of the energy service rate were not related to the provision of energy service. In the Company's response to Question Staff 1-8, PSNH noted, "These costs are not energy related, i.e. they do not correlate with the quantity of energy service provided...." In light of that, the Commission could legally approve the transfer required under the Joint Petition's ratemaking methodology. Since the underlying costs are not related to the provision of default energy service, PSNH concluded, "The duration of the transfer should be permanent since these expenses are not energy related."

Therefore, although Advocacy Staff's response to Staff Question 1-8 correctly noted the original intention of the parties, PSNH's response was pragmatic and sought to provide a legal basis for the Commission to approve the Joint Petition under the Company's interpretation of the controlling law as set forth by the Commission in Order No. 25,256.