



**Public Service
of New Hampshire**

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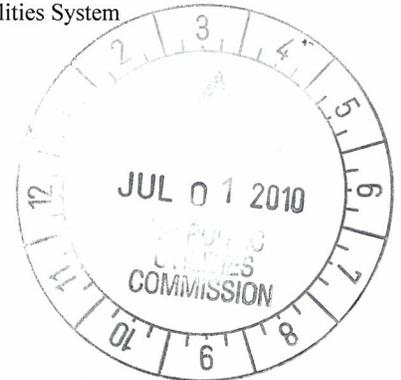
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The Northeast Utilities System

Gerald M. Eaton
Senior Counsel

July 1, 2010

Debra A. Howland
Executive Director and Secretary
State of New Hampshire - Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429



Re: Docket No. DE 08-103 Investigation of Public Service Company of New Hampshire's Installation of Scrubber Technology at Merrimack Station

Dear Ms. Howland:

By Secretarial Letter dated June 25, 2010, the Commission afforded the opportunity for Public Service Company of New Hampshire (PSNH) to make a showing that the documents supplied to the Commission by the New Hampshire Chapter of the Sierra Club ("NHSC") are still entitled to confidential treatment. Senior Counsel Linda T. Landis represents PSNH before the Department of Environmental Services, Air Resources Council. She states:

PSNH has produced only a redacted version of the Sargent & Lundy study in consultation with the vendor. The Air Resources Council's Decision and Order related to the Sargent & Lundy report required PSNH to provide only those portions of the study directly relevant to the appeal before the Council regarding the Temporary Permit issued by DES for the scrubber project. The Council Order stated: "Portions of the study not related to the scrubber or turbine...are not relevant to this appeal." PSNH accordingly, and in consultation with the vendor, redacted irrelevant portions of the study. Additional requests by NHSC for an unredacted version of the study were denied by the Council. (p. 232 of Hearing Transcript.) The study is copyrighted by the vendor; a footnote on each page states: "This document contains information that is confidential and proprietary to Sargent & Lundy (S&L). It shall not be reproduced in whole or in part or released to any third party without the prior written consent of S&L. Copyright Sargent & Lundy 2005; all rights reserved."

The Burns & McDonnell study, dated November 2004, was simply another feasibility study that looked at a variety of options for Merrimack Station, and the GZA study, dated July 2005, was an overview of various pollutant control options.

All three studies were undertaken by PSNH to ensure that PSNH prudently owns, operates, and maintains its generating assets. No projects or options outlined in the studies were undertaken nor will be undertaken without obtaining all necessary permits and approvals.

The Burns & McDonnell report was kept confidential by PSNH. The study was provided to the Environmental Protection Agency (EPA) as part of a routine information request in April 2009

under Section 114 of the Clean Air Act. Upon information and belief, the NHSC obtained its copy through a Freedom of Information Act (FOIA) request to the EPA. PSNH did not provide the Burns & McDonnell study to the NHSC. The study contains vendor specific information.¹

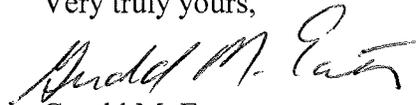
RSA 91-A:5 allows the Commission to grant an exception to the general rule of public disclosure if disclosure would constitute an invasion of privacy. The vendor's confidential study is its work product which should not be broadcast on the Commission's web site. .

In sum, the Burns and McDonnell report was made a part of the record at the Air Resources Council proceeding. It is therefore a public document now and PSNH has no objection to the Commission making it available for public inspection. However, as vendor proprietary information, it should not be published on the Commission website.

The Sargent and Lundy Report, in redacted form, and the GZA Report, both copyrighted documents, have been marked for identification in the Air Resources Council proceeding. PSNH has objected to these documents becoming part of the record in that proceeding. If the Council makes one or both of those documents part of the record, they should be treated in the same manner as the Burns & McDonnell report before the Commission (made available for public inspection). If the Council upholds PSNH's objection and the documents do not become part of that public record, the Commission should treat them similarly. Because both of these documents are copyrighted, as clearly indicated on the documents, they should not be posted on the Commission website.

Finally, PSNH notes that all of these documents pertain to the company's efforts to evaluate various operating scenarios in order to ensure Merrimack Station is managed efficiently and prudently. NHSC has consistently misunderstood these reports,² and based on that misunderstanding, asserted PSNH is engaging in improper activities. That simply is not the case.

Very truly yours,



Gerald M. Eaton
Senior Counsel

Enclosures

cc: Service List

¹ The Burns & McDonnell report was provided to Liberty Consulting Group, the Commission's consultant, in Docket No. DE 06-097 on a confidential basis. This same report, when provided to the EPA, was marked "confidential." Notwithstanding those efforts by PSNH to maintain the confidentiality of this report, it was released by EPA under FOIA, and has since been made part of the public record at the Air Resources Council.

² For example, the Burns & McDonnell Report, which was initiated in mid-2004, looked at scrubber technology. But it was not a scrubber designed to reduce emissions of mercury, like the one being installed today. It was a sulfur dioxide scrubber. That is a substantially different machine, as even NHSC's expert witness at the Air Resources Council recognized. PSNH never in fact pursued a sulfur dioxide scrubber so that analysis consequently has no bearing on any issues before the Commission today. Yet, even now, NHSC continues to confuse these two issues.