BEFORE THE NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DE 10-261

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Least Cost Integrated Resource Plan

NH OFFICE OF THE CONSUMER ADVOCATE'S CLOSING STATEMENT

The NH Office of the Consumer Advocate ("OCA") respectfully requests that the Commission find that (1) PSNH's least cost integrated resource planning ("LCIRP") process for energy supply is not adequate or otherwise consistent with applicable law; (2) based upon PSNH's analysis of demand-side energy management programs, additional cost-effective opportunities exist and could be employed by PSNH to meet the energy needs of its customers in a manner that is consistent with the state's least cost energy policy and is lower cost than energy supply; and (3) PSNH's continuing unit operation study for Newington Station is flawed and unreliable. Consequently, the OCA recommends that (A) the Commission require PSNH to file its next LCIRP by December 31, 2012; (B) the 2012 LCIRP include an independent analysis of the costs and benefits of continued operation, divestiture and retirement of all of PSNH's fossil-fueled generation facilities; and (C) the Commission open a separate adjudicative proceeding to develop a plan for PSNH to undertake additional cost-effective demand side programs in order to take advantage of the remaining energy-efficiency potential in its service territory.

(1) PSNH's LCIRP process for energy supply is not adequate or otherwise consistent with applicable law including the state's energy policy.

RSA 378:37 declares 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; the protection of the safety and health of the citizens, the physical environment of the state, and the future supplies of nonrenewable resources; and consideration of the financial stability of the state's utilities.

RSA 378:38 authorizes the Commission to supervise utility compliance with this state energy policy, requiring the filing of a LCIRP which includes the utility's assessment of supply options. RSA 378:38, III. The Commission has interpreted this requirement to include the consideration of reasonably foreseeable changes in environmental regulation. See Secretarial Letter dated December 28, 2010 ("The Commission notes as a general matter that a sound planning process should consider reasonably foreseeable regulatory changes, recognizing that the threshold at which a potential change in regulatory standards becomes too remote or speculative for a utility to consider will depend on the particular facts and circumstances of the regulatory matter at issue."). This expectation is consistent with the manner in which other regulators and other utilities plan for the future. See Exhibit OCA-1, pages 4 through 6 (referring to proactive studies of other regulators and practices of other utilities concerning environmental regulation of electric generation); see also Exhibit OCA-1, Attachments KET-2, KET-3, KET-4, KET-5, and KET-6.

PSNH's planning for energy supply, as reflected in the 2010 LCIRP, however, did not include consideration or modeling of reasonably foreseeable changes in environmental regulation. See, e.g., Exhibit OCA-1, Attachment KET-7, PSNH Response to CLF 01-002 ("As part of its Least Cost Integrated Resource planning process, PSNH does not prepare analyses or scenarios based upon possible regulatory rules or outcomes"); Attachment KET-8, PSNH Response to CLF 01-020 (same); and Attachment KET- 9, PSNH Response to OCA 02-012 (PSNH "does not prematurely estimate costs of potential changes in environmental regulations.").

PSNH has or should have access to information about potential developments in environmental regulation as well as the associated risks to its generating facilities and costs to customers. See Exhibit OCA-1, Attachment KET-10, Excerpt from Northeast Utilities' 2010 Annual Report, p. 13 (Northeast Utilities, PSNH's parent, reported to shareholders, "We are continually evaluating the risks presented by climate change concerns and issues. Such concerns could potentially lead to additional rules and regulations that impact how we operate our business, both in terms of the generating facilities we own and operate as well as general utility operations...We would expect that any costs of these rules and regulations would be recovered from customers."). Nonetheless, PSNH did not include this information or its analysis of this information in its planning for supply over the LCIRP horizon.

Recent experience with PSNH's Merrimack Station reveals that compliance with environmental regulations applicable to energy generation can be extremely costly to ratepayers. Because the law requires PSNH to provide reliable and adequate energy to its customers at least cost, PSNH's planning process should include consideration of potential costs associated with the continued operation of its generation facilities – especially in light of the plants' very low capacity factors at the present time. Only by considering all of the reasonably-foreseeable costs associated with environmental compliance of its generation facilities can PSNH make prudent, least-cost decisions about how to supply its customers. By failing to consider and analyze reasonably foreseeable changes in environmental regulation applicable to electricity generation, PSNH's planning for energy supply is not adequate or otherwise consistent with applicable law including the state's energy policy.

(2) PSNH's analysis of demand-side energy management programs demonstrates that additional cost-effective opportunities exist and could be employed by PSNH to meet the energy needs of its customers in a manner that is consistent with the state's least cost energy policy.

RSA 378:38, II requires LCIRP to include a utility's assessment of demand-side energy management programs. RSA 378:39 requires the Commission to prioritize, in assessing the adequacy of a utility's planning, demand-side management over other energy sources. This preference for reducing demand is an important tool for providing least cost energy to New Hampshire utility customers, and should require that when cost-effective demand side opportunities exist that cost less than energy supply, the utility should implement them. To the extent that PSNH requires additional funding to do so, it should file a proposal to recover the cost of those additional cost-effective demand side opportunities. To do otherwise is to be in violation of the state's least-cost energy mandate.

PSNH analyzed the additional cost-effective demand side supply opportunities available for customers, using the Commission's report "Additional Opportunities for Energy Efficiency in New Hampshire" ("the GDS Report") as a starting point for their analysis. Using the GDS Report, with changes to reflect certain PSNH-specific assumptions, the Company showed that it could increase investment in cost-effective demand side programs in order to take advantage of the remaining energy efficiency potential in its service territory. It should be authorized to do so because cost-effective demand side resources are by definition cheaper than supply, and also provide capacity cost savings to customers, and many other benefits to the state.

In order to fully analyze how PSNH could best take advantage of the additional cost effective demand side opportunities that it has identified, the Commission should open a separate docket to develop a plan to capture those cheaper efficiency resources for customers. Opportunities for additional cost-effective demand-side management should not be overlooked or foregone – especially when they cost less than traditional supply.

(3) PSNH's continuing unit operation study for Newington Station is flawed and unreliable.

The Commission required PSNH to undertake and include in its 2010 LCIRP filing, a study of the "costs of continuing [PSNH's] ownership and operation" ("CUO Study") of PSNH's fossil-fueled generating facility, Newington Station. Order 25,061 (DE 09-180, December 21, 2009) at page 31. The OCA interpreted the Commission's directive to include the costs and benefits associated with retirement (i.e., as a component of the analysis of "continuing operation") as well as divestiture (i.e., as a component of the analysis of "continued ownership").
PSNH's CUO Study, however, does not include any assessment of the costs and benefits of divestiture or retirement. In addition, PSNH sought only assistance with the evaluation of "continuing operation" of Newington. It did not seek an analysis of "continuing ownership." See Exhibit OCA-1, page 21 ("the initial RFP that PSNH 20 issued only included "continued operation" and did not include "continued ownership").

Setting aside the issue of whether or not PSNH's CUO complies with Order 25,061, PSNH's failure to consider all potential value of the Newington plant to customers – whether through operation or through divestiture – makes the study incomplete and unusable to the Commission for its intended purpose: to assess the present and future economic soundness of the plant. See Order No. 25,061 at page 19 (PSNH CUO Study required to assess whether continued ownership and operation of Newington Station is economically sound." In DE 09-180, within the context of its consideration of PSNH's 2010 Energy Service rate, the Commission heard testimony from its Staff regarding the "steadily worsening" trend of "increasingly uneconomic" operation of Newington Station. Order No. 25,061 at page 17. To assess Newington's economic viability, Staff recommended that "PSNH prepare a study regarding the benefits and costs of continued ownership and/or operation of Newington Station and whether the plant will continue to provide benefits to PSNH customers." Id. at page 18 (emphasis added).

Although the assessment of divestiture and retirement costs and benefits is not specifically stated, these considerations are logically and reasonably included within the scope of the Commission's directive. Simply stated, in order to assess if Newington remains economically viable and "provides benefits to PSNH customers," the Commission must have information about the costs and benefits of retirement and divestiture. Without this information, the Commission must consider the data about the costs and benefits of business as usual operation in a vacuum, and not measured against the other possible costs and benefits associated with Newington Station. PSNH's omission of the divestiture and retirement analyses from its CUO Study – whether or not a violation of a Commission order – was short-sighted, self-serving and undercuts the usefulness to the Commission of the CUO Study.

Lastly, in addition to PSNH's imprudent omission of all possible costs and benefits associated with Newington Station, the OCA asks the Commission to seriously consider the many questions and concerns raised by the non-Company parties about the data that PSNH used in its CUO Study. These questions and concerns primarily relate to PSNH's numerous corrections and revisions to the original

CUO Study, many of which resulted in significant reductions to Newington's net present value. These numerous corrections and revisions and associated reductions to net present value reflect PSNH's bias (i.e., toward data causing increases to net present value and away from data resulting in decreases to net present value) as well as the need for independence in any future analyses of Newington's economic viability.

The significant transformation of PSNH's LCIRP analyses and results since the beginning of this docket warrants careful consideration by the Commission in its assessment of the adequacy of the CUO Study. The ever-diminishing net present value of Newington Station suggests that further Commission investigation of the economic viability of Newington Station – and PSNH's other similarly-situated, fossil fueled generating plants – is warranted. Other pending Commission proceedings concerning customer migration may also benefit from further investigation of the costs and benefits of PSNH's generation activities, too.

(A) <u>The Commission should require PSNH to file its next LCIRP by December 31, 2012.</u>

RSA 378:38 requires electric utilities to file a LCIRP with the commission "at least biennially." PSNH filed its 2010 IRP on September 30, 2010; this docket has taken nearly two years to complete. Therefore, it would be lawful and reasonable to require that PSNH's next biennial IRP filing is due by December 31, 2012.

<u>(B) PSNH's 2012 LCIRP should include an independent analysis of the costs and benefits of continued operation, divestiture and retirement of all of PSNH's fossil-fueled generation facilities.</u>

The Commission should require PSNH's 2012 LCIRP to include an independent analysis of the costs and benefits of continued operation, divestiture and retirement of all of PSNH's fossil fuel-fired generation facilities. Such an analysis will facilitate PSNH's planning as well as compliance with the state's energy policy of "meet[ing] 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; the protection of the safety and health of the citizens, the physical environment of the state, and the future supplies of nonrenewable resources; and consideration of the financial stability of the state's utilities." (emphasis added). Further, to the extent that PSNH's choice to exclude retirement and divestiture considerations from the Newington CUO Study results in additional costs to customers including but not limited to the costs associated with commissioning a new study to include these considerations, PSNH should hold its customers harmless.

(C) The Commission should open a separate adjudicative proceeding to develop a plan for PSNH to undertake additional cost-effective demand side programs in order to take advantage of the remaining energy-efficiency potential in its service territory.

The Commission should open a new docket to develop a plan for PSNH to implement the additional cost-effective demand side opportunities in its service territory, which would include a plan to fund demand side programs that are less expensive than traditional energy supply through rates. This is a necessary step to achieve the state's clear energy policy that mandates that the least cost resource must be employed for the benefit of customers.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this filing was provided this day to the parties by electronic mail.

June 13, 2012

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(2) PSNH's analysis of demand-side energy management programs demonstrates that additional cost-effective opportunities exist and could be employed by PSNH to meet the energy needs of its customers in a manner that is consistent with the state's least cost energy policy.

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PSNH analyzed the additional cost-effective demand side supply opportunities available for customers, using the Commission's report "Additional Opportunities for Energy Efficiency in New Hampshire" ("the GDS Report") as a starting point for their analysis. Using the GDS Report, with changes to reflect certain PSNH-specific assumptions, the Company showed that it could increase investment in cost-effective demand side programs in order to take advantage of the remaining energy efficiency potential in its service territory. It should be authorized to do so because cost-effective demand side resources are by definition cheaper than supply, and also provide capacity cost savings to customers, and many other benefits to the state.