

THE STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

Public Service Company of New Hampshire
Least Cost Integrated Resource Plan

Docket No. DE 10-261

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE'S ANSWER TO
TRANSCANADA'S OBJECTION TO PSNH MOTION FOR PROTECTIVE ORDER
RE: FIVE YEAR CAPITAL BUDGETS

On April 8, 2011 Public Service Company of New Hampshire ("PSNH" or "the Company") filed a Motion for Protective Order concerning the attachment to a response to a data request (OCA Set No. 1, Q-OCA-033) asking for the capital budgets for the next five years for each of PSNH's major generating stations. PSNH requested that just the dollar figures for each station be protected from public disclosure and that the figures not be shared with the competitive suppliers who have been granted intervenor status in this proceeding. On April 13, 2011, PSNH filed a corrected response to Q-OCA-033 and asked the Commission to include the corrected response under its previous Motion for Protective Order. On April 18, 2011, TransCanada Power marketing, Ltd. and TransCanada Hydro Northeast, Inc. ("TransCanada") filed an Objection to PSNH's Motion for Protective Order ("TransCanada Objection"). In response to the TransCanada's Objection, PSNH says the following:

1. PSNH agrees with TransCanada that it was under a duty to file "an economic analysis of retirement for any unit in which the alternative is the investment of significant sums to meet new emissions standards and/or enhance or maintain plant performance." DE 07-108, Order No. 24,945, 94 NH PUC Rep. 103,111 (2099). Had the capital budgets included significant sums to meet new emissions standards and/or enhance or maintain plant performance, PSNH was under a duty to supply such an economic analysis. The Commission has already twice ruled that PSNH is not required to include in its least cost plan filing an analysis of divestiture as a

supply side alternative.¹ Similarly, PSNH is not required to address retirement as a supply side alternative “inasmuch as the legislature created RSA 369-B:3-a to deal specifically with divestiture [retirement] of PSNH generation assets.” 91 NH PUC Rep. 540.

2. PSNH was not put on notice to supply an economic analysis of retirement of its generation stations (except for the Newington Continued Operation Study) unless the Company planned to invest “significant sums to meet new emissions standards and/or enhance or maintain plant performance”. The lack of an economic analysis is PSNH’s affirmation that, when the least cost plan was prepared for filing, the Company had no requirement to make significant investments to meet emission standards or plans to make significant investments to enhance or maintain plant performance. The capital budgets do include funds to perform periodic inspection, major maintenance and repair of equipment at the generating stations. The plants undergo major inspections and maintenance (e.g. an eight week outage one year versus a two week outage the previous year) on a multiyear cycle basis, and the five year capital budgets attached to the response to OCA-033 will show each year those major outages will occur.

3. TransCanada states that the yearly capital budgets would only show the year in which the expense would be incurred. TransCanada is either being thoroughly disingenuous, or it lacks any understanding of the traditional plant maintenance schedule in New England. Major maintenance is scheduled for the spring (April-May) and fall (September-October) so that large generating stations are more likely to be available to serve large summer and winter loads; therefore, if

¹ (3) Divestiture of Existing Generating Assets

Staff has argued that the provision in RSA 369-B:3-a, relative to the possibility of PSNH divesting its generation assets after April 30, 2006, means that divestiture is a supply-side option and, as such, should be evaluated in the LCIRP. The economic evaluation, according to Staff, should be based on a comparison of future costs and benefits. PSNH has opposed Staff’s recommendation and noted that its low default service prices, compared to other New Hampshire electric utilities, demonstrate the economic benefit to customers of continued ownership. We agree with PSNH that it should not be required to evaluate the costs and benefits of divestiture in the context of its LCIRP, inasmuch as the legislature created RSA 369-B:3-a to deal specifically with divestiture of PSNH generation assets. DE 04-072, Order No. 24,695, 91 NH PUC Rep. 527, 540 (2006), *affirmed*. Order No. 24,945.

the competitive supplier knows that major maintenance is going to take place in Year X, there are only two two-month windows in Year X when that outage is likely to take place. PSNH will be at a competitive disadvantage with respect to any competitive suppliers who know when these major maintenance outages will take place; therefore, PSNH's customers would be harmed by higher prices paid for supplemental power. If the Motion for Protective Order is granted, but the information is supplied to the New England Power Generators Association, the entire market of competitive suppliers will know with relative certainty the future months in which PSNH plans to conduct its periodic inspections and major maintenance.

4. The fact that PSNH provided more detail in a response to a data request in a docket setting the energy service rate for a subsequent year, Docket No. DE 10-257 (Exhibit B to TransCanada Objection) is inapposite. By the time PSNH supplies its capital budgets to the Commission (RSA 374:5, Form E-22) and includes such information in a data response, the maintenance schedule for the subsequent year has been approved by ISO-New England, and PSNH has already secured back up power supply. PSNH has yet to secure a backup power supply for major maintenance for future years.

5. It has been customary practice to grant confidential treatment to confidential commercial information and to restrict dissemination to intervenors who are competitive suppliers. In *Re Kearsarge Telephone Company*, Docket No. DT 07-027, a competitive local access telecommunications provider, SegTel, Inc., sought access to competitive information from the petitioning incumbent local telecommunications carriers. Order No. 24,820, 292 NH PUC 441, 443 (2007). In that decision the Commission stated, "It is well-established in the context of administrative proceedings that due process is a flexible concept, varying with the nature of the governmental and private interests that are implicated. *Matthews v. Eldridge*, 424 U.S. 319, 334 (1976)." *Id.* It is reasonable to restrict access to this

information from the competitive suppliers in this proceeding. The Commission has provided protective treatment for confidential information in the past and restricted disclosure to competitive supplier intervenors such as TransCanada. Docket No. DE 10-121, Order No. 25,167 (November 9, 2010).

PSNH's Motion for Protective Order should be granted and access should be denied to the competitive supplier intervenors.

Respectfully submitted,

Public Service Company of New Hampshire

April 27 2011
Date

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CERTIFICATE OF SERVICE

I hereby certify that, on the date written below, I caused the attached Answer to TransCanada's Objection to PSNH's Motion for Protective Order to be served pursuant to N.H. Code Admin. Rule Puc §203.11.

April 27 2011
Date

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