

THE STATE OF NEW HAMPSHIRE  
BEFORE THE PUBLIC UTILITIES COMMISSION

Docket No. DE 10-261

PUBLIC SERVICE OF NEW HAMPSHIRE

2010 Least Cost Integrated Resource Plan

**CONSERVATION LAW FOUNDATION'S OBJECTION**  
**TO PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE'S MOTION TO STRIKE**  
**TESTIMONY OF DOUGLAS HURLEY**

The Conservation Law Foundation ("CLF") hereby objects to the Motion (the "Motion") To Strike Testimony of Douglas Hurley filed with the Commission on December 16, 2011 by Public Service Company of New Hampshire ("PSNH"). In support of this objection, CLF states the following:

1. PSNH's Motion asserts that Mr. Hurley's testimony, including the report prepared by Synapse Energy Economics, entitled *Economic Analysis of Schiller Station Coal Units* (dated July 27, 2011) (the "Synapse Report" appended to the Hurley testimony as Exhibit DH-3), are "outside the scope of this docket." Motion at Pg. 1. According to PSNH, Mr. Hurley's testimony, which addresses in detail the relative economic merits of Schiller Station, does not "relate to any of the requirements [] for the content of this LCIRP." *Id.*

2. As set forth in greater detail below, the substance of PSNH's Motion is plainly incorrect. Mr Hurley's testimony and analysis assessing the current and future economics of Schiller Station units 4 and 6 in the wholesale market addresses numerous statutorily-mandated plan elements including, without limitation, whether PSNH's plan meets the energy needs of the state at the lowest reasonable cost. RSA 378:37. Moreover, PSNH's motion is procedurally

defective as Mr. Hurley's testimony has not been adopted under oath and is thus, not yet part of the evidentiary record in this proceeding. *See* Puc 203.23(b).

3. RSA Chapter 378 provides the statutory requirements by which the adequacy of PSNH's least cost energy planning is reviewed. These various statutes require, *inter alia*, that the:

- a) energy needs of the state be provided at the lowest reasonable cost while providing for reliability and diversity of energy sources; RSA 378:37.
- b) plan include an assessment of the impact on state compliance with the Clean Air Act Amendments of 1990 and an assessment of the plan's long and short term economic and energy price and supply impact on the state. RSA 378:38.
- c) Commission consider the potential environmental and economic impacts of each option set forth in the plan for meeting the state's energy needs. RSA 378:39.

Under longstanding Commission precedent, "the primary objective" of integrated least cost resource planning is to develop and implement an integrated resource plan that satisfies customer energy service needs at the lowest overall cost consistent with maintaining supply reliability. *See Public Service Co. of New Hampshire*, 73 NH PUC 117, 126 (1988).

4. The Commission's decision in PSNH's 2007 LCIRP proceeding sets forth certain additional elements required for the plan at issue in this proceeding.<sup>1</sup> Such elements include, *inter alia*, a ranking of supply-side options "based upon a revenue requirements analysis" including, for ranking projects that serve different purposes or differ in size, "the ratio of net revenue requirements to market purchases for each option, with both quantities expressed in net present value terms." Order 29,945 at Pg. 15.

5. In its plan, PSNH projected forward the "PSNH Supply Resources Used to Serve Energy Service Requirement" including energy output in MWhs for Schiller units 4 and 6 in

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<sup>1</sup> Order 29,945 (Feb. 27, 2009). PSNH's Motion (¶ 1-2, Pgs. 1-2) erroneously cites the description of the contents of PSNH's LCIRP in the Order of Notice, rather than the relevant statutes and Commission precedent, as "identify[ying] the issues that would be considered in this docket."

each calendar year through 2015. *See* Appendix D. According to the plan, the Schiller units “are assumed to operate as baseload resources” for each year of the planning period. Plan at Pg. 94.<sup>2</sup>

6. Mr. Hurley’s testimony and the incorporated Synapse Report entirely relate to the plan’s analysis of Schiller Station as a supply side option: The Hurley testimony provides, *inter alia*: 1) a thorough and detailed analysis of the current and future economic merits of Schiller units 4 and 6 as supply side resources owned and operated by PSNH ; 2) a cash flow analysis which projects and analyzes the net revenues of the two Schiller units over a 10 year period from 2011-2020; and, 3) the current and projected operating cost and wholesale market revenues for Schiller units 4 and 6 under various scenarios addressing future environmental compliance costs, an assumption of no future environmental control costs, high and low natural gas prices and using the market assumptions in the plan’s Newington study. *See*, Hurley testimony at Pgs. 7-9; Synapse Report at Pgs. 10-14. In his testimony, Mr. Hurley concludes:

- a) the continued operation of the Schiller units 4 and 6 loses money in every year even under optimistic assumptions of energy revenues and environmental compliance costs.
- b) It would be far more economic to serve PSNH ratepayers with cost effective energy efficiency programs including those proposed by the Company or by market purchases [than to continue relying on Schiller as a supply side option].

Hurley testimony at Lines 183-189; Pg. 9.

7. While focused on Schiller Station, the analysis provided in the Hurley testimony and the Synapse Report explicitly and almost exclusively address the economics of PSNH’s plan and whether the plan meets the state’s energy needs at the lowest reasonable cost, *See*, RSA 378:37, 39. PSNH’s Motion concedes this point. (Motion at ¶ 4, Pg. 2 stating, “Mr. Hurley’s

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<sup>2</sup> Issues relating to the extent to which PSNH’s plan meets the requirements of the relevant statutes and Commission precedent are not addressed in this Objection and are reserved for the hearing on the merits.

testimony goes on at length regarding CLF's view of the economics associated with the Schiller Units 4 and 6 . . . .")

8. PSNH's Motion confuses the foregoing core requirements of LCIRP with the Commission's precedent requiring "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." Motion at ¶ 4, Pgs. 2-3, citing Order 24,945. While PSNH may disagree with the position of CLF, Staff and OCA in this proceeding regarding the Plan's failure to address new emissions standards under the Clean Air Act,<sup>3</sup> CLF respectfully suggests that the Commission should determine the merits on this issue at the hearing (after the testimony of the foregoing parties has been sworn and accepted into evidence), and not in response to the instant Motion.

9. Until such time as the Hurley testimony is adopted under oath at the hearing and the subject of a motion to move it into the record of this proceeding, "there is nothing to strike at this juncture" and PSNH's Motion is premature and out of order. *See* Order No. 24,667 at Pgs 6-7. (September 22, 2006) ("it is the Commission's longstanding practice to allow parties to offer exhibits, including prefiled testimony, over the course of a hearing, marking such exhibits for identification purposes but ruling on their admissibility only at the conclusion of the hearing, thus giving parties as full an opportunity as possible to consider bases for objecting to such evidence.").

WHEREFORE, CLF respectfully requests that the Commission:

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<sup>3</sup> Within days of PSNH's Motion, EPA finalized the stringent new emissions standards under Section 112 of the Clean Air Act requiring substantial reductions in mercury and toxic air pollutant emissions from Schiller Station during the planning period. *See* National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial- Commercial-Institutional Steam Generating Units, finalized on December 16, 2011 (<http://www.epa.gov/mats/pdfs/20111216MATSfinal.pdf>).

- A. Deny PSNH's Motion to Strike Testimony of Douglas Hurley; and
- B. Grant such further relief as it deems appropriate.

Respectfully submitted,

CONSERVATION LAW FOUNDATION

By:



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Dated: December 27, 2011

CERTIFICATE OF SERVICE

I hereby certify that on the 27<sup>th</sup> day of December 2011, a copy of the foregoing Objection was sent electronically or by First Class Mail to the service list.

A handwritten signature in black ink, appearing to read "N. Jonathan Peress", with a long horizontal flourish extending to the right.

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