

THE STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DE 10-261

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
2010 Least Cost Integrated Resource Plan

Motion to Compel PSNH to Respond to Record Request – Exhibit TransCanada 4

NOW COMES TransCanada Power Marketing Ltd. and TransCanada Hydro Northeast Inc. (“TransCanada”), an intervenor in this docket, and moves this Honorable Commission to compel Public Service Company of New Hampshire (“PSNH”) to respond to the record request which was made during the third day of hearings in this matter as described in more detail below. In support of this Motion TransCanada states as follows:

1. As the Commission noted in the Order of Notice in this docket, PSNH’s initial filing included a “continuing unit operation study” for Newington Station as had been directed by the Commission in the last least-cost integrated resource plan (“LCIRP”) proceeding. See *Re Public Service Company of New Hampshire*, Order No. 24,945, 94 NH PUC 103, 111 (2009). Order No. 24,945, the order cited in the Order of Notice and that the Commission issued in PSNH’s 2007 LCIRP, required that PSNH “include in future LCIRPs 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.” 94 NH PUC at 111.

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2. On December 16, 2011 PSNH responded to a data request, TC 4-5, which was introduced and marked as an exhibit during the course of the hearing (TransCanada #3) and a copy of which is attached to this motion and marked as Attachment A. Subsection (vi) of this data request asked for actual net energy benefits realized by Newington in the first eleven months of 2011. During the hearing counsel for TransCanada asked that PSNH provide the actual net energy revenues for Newington for 2011 and the Commission granted this request. Attached is a copy of pages 23-26 of the transcript of the afternoon session of Day 3, May 8, 2012, marked as Attachment B. PSNH submitted a response on May 18, 2012, a copy of which is provided as Attachment C to this motion.¹

3. PSNH's response does not provide the information requested. What PSNH did was to change the question that was asked during the hearing thereby obfuscating the information contained in the response so that it does not answer the question that was asked. The question PSNH asked itself was: "Please update the response to TC-04, Q-TC-005, part (vi), providing the actual net energy benefits realized by Newington Station for 2011 *when running for economics.*" [Emphasis added.] PSNH thus turned the record request into a different question with a different answer. It would require a number of follow up questions before the information PSNH provided could be understood and compared with other information provided in this docket. For example, on page 13 of the Newington CUO study (bates page 196) labeled as Exhibit G.1 (revised on 7/8/11 and further revised during the hearing) Levitan & Associates, Inc. ("LAI")

¹ It is curious that the response lists David Errichetti as the witness, while this request was a follow up to a response to a data request (TC 4-5) where the original respondent was Terry Large. Moreover, although the record request was made on hearing day 3, May 8, 2012, and the response was submitted under cover letter dated May 18, 2012, the date in the upper right hand corner of the response to the record request is April 4, 2012.

provided all necessary information to calculate Newington's net energy revenue: Fuel and Fuel-Related Expense, Emission Allowance Expense, and Energy and Ancillary Revenues. What TransCanada is obviously trying to do and what it believes will be of interest and use to the Commission is to compare the results obtained by the LAI model with the actual numbers for Newington for 2011 that are now available. The actual 2011 numbers can be utilized to supplement other information in the docket comparing the Levitan model numbers to the actual numbers. See pages 11 and 12 of the Jacobs review of the LAI model (Table 2, Back-Cast Result Analysis, and Figure 2, Newington Station Energy Net Revenues: Historical versus Projected), a copy of which is Attachment D to this motion, bates pages 69 and 70 of Staff Exhibit 1. The way in which PSNH mischaracterized the request and then responded to it prohibits a straight-forward apples to apples comparison.

4. The information being requested relates directly to Newington Station's performance during 2011 and to the credibility of the continuing unit operation study that is a critical part of this proceeding.

5. PSNH should have provided the information regarding the 2011 actual net energy revenues prior to being asked for this information during the hearing. The instructions that accompanied the December 16, 2011 data request referred to above (TC 4-5) contained the following:

These data requests seek answers as of the date hereof (i.e. as of December 16, 2011) but shall be deemed to be continuing so that any additional information relating in any way to these data requests that you acquire or becomes known to you up to and including the time of hearing shall be provided to TransCanada promptly after such information is acquired or becomes known.

TransCanada submits that PSNH's failure to provide an update to the December 16, 2011 data request, which relates directly to the Newington 2011 actual net energy revenue, thus violated the instructions.

6. In summary for the reasons cited above, the Commission should compel PSNH to provide a new, relevant and accurate response to the record request that was made during the hearing so that this information can be made available to the Commission, the Staff, the OCA and all of the parties to this docket as soon as possible. The Commission should require that the response to the record request and any related explanations produced by the Company be simple, all-inclusive, and directly equivalent to the figures and explanations provided in both the Levitan forecast/future revenue schedules, and PSNH's past direct answers to inquiries related to 2010, etc. net energy revenues. Because the proposed schedule requires post-hearing briefs to be submitted two weeks after the transcript has been provided TransCanada asks that this Motion be addressed with this deadline in mind.

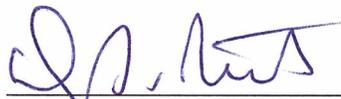
7. Counsel to TransCanada has contacted counsel to PSNH in an attempt to resolve this discovery issue in good faith, to no avail. The Staff, the Office of Consumer Advocate, the Conservation Law Foundation, Granite Ridge Energy, LLC, and the New England Power Generators Association, Inc. support this Motion. The Office of Energy and Planning takes no position on this Motion.

WHEREFORE, TransCanada respectfully requests that this honorable
Commission:

- A. Compel PSNH to provide a new, relevant and accurate response to the record request made during the hearing and that such response and related explanations produced by the Company be simple, all-inclusive, and directly equivalent to the figures and explanations provided in both the Levitan forecast/future revenue schedules, and PSNH's past direct answers to inquiries related to 2010, etc. net energy revenues; and
- B. Grant such further relief as it deems appropriate.

Respectfully submitted,

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Douglas L. Patch

May 24, 2012

Certificate of Service

I hereby certify that on this 24th day of May, 2012 a copy of the foregoing motion was sent by electronic mail to the Service List in DE 10-261.



Douglas L. Patch

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