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N.H.P.U.C. Case No. DE 11-184
Exhibit No. #12
Witness Panel'

DE 11-184

EXHIBIT

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Joint Petition for Approval of Power Purchase Agreements and Settlement Agreement

**Public Utilities Commission Staff Advocate's Response to
Staff's Data Requests to PSNH – Set 1**

Date Received: August 23, 2011

Date of Response: September 6, 2011

Request No.: Staff to Staff Advocate 1-10

Witness: Thomas C. Frantz

Request: Reference Frantz testimony, page 6, lines 19-21. Please explain how the "overall settlement of the issues involving PSNH, the Berlin Biomass Facility and the Wood IPPs" supports the justness and reasonableness of the energy prices in the PPAs.

Response: The energy rates in the PPAs are fixed, and while they appear to be above market, market conditions can and do change. Those changes could make them less uneconomic over the terms of the PPAs. Even if they do, in fact, turn out to be above market as they now appear to be, the retention of the direct and indirect jobs at the Wood IPPs as well as the ability of the Berlin Biomass facility to move forward with construction and the hundreds of jobs associated with that project should outweigh the potential short-term above-market energy costs of these PPAs.

Moreover, the Commission has a duty to balance consumer and investor interests. In order to carry out that duty, it is afforded somewhat of a free hand in determining a "just and reasonable" rate. While cost-based rates form a standard basis in which to undertake that review, it is not required, as a matter of law, to use any one rate setting methodology, but rather the rate setting methodology that best meets the Commission's needs in balancing the interests of the utility and the public. See *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 316 (1989). In fact, as the Supreme Court has said on a number of occasions (see especially *Permian Basin Area Rate Cases*, 390 U.S. 747 (1968)), there is no one methodology that must be used in determining what will result in a reasonable result and that the federal regulator could, based on reasoned consideration, apply market or non-cost criteria to its determination of a just and reasonable rate.

Furthermore from a practical perspective on generation resources, these biomass plants add fuel diversity. The benefits resulting from this complex and comprehensive settlement support the just and reasonable energy prices contained in the PPAs.

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