

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

November 30, 2011 - 10:09 a.m.
Concord, New Hampshire

DAY 1

REDACTED
(For public use)

NHPUC DEC05'11 PM 3:07

RE: DE 11-184
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE:
*Joint Petition for Approval of Power
Purchase and Sale Agreements and
Settlement Agreement.*

PRESENT: Chairman Thomas B. Getz, Presiding
Special Commissioner Bruce B. Ellsworth

Sandy Deno, Clerk

APPEARANCES: Reptg. Public Service Co. of New Hampshire:
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Sarah B. Knowlton, Esq.

Reptg. the Wood-Fired IPPs:
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David K. Wiesner, Esq. (Olson & Gould)

Reptg. the NHPUC Advocacy Staff:
F. Anne Ross, Esq.
Thomas C. Frantz, Director/Electric Div.

Reptg. the Dept. of Resources & Econ. Dev.:
Cmsr. George Bald

COURT REPORTER: STEVEN E. PATNAUDE, LCR NO. 52

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ORIGINAL

APPEARANCES: (C o n t i n u e d)

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Halifax-American Energy Company and
PNE Energy Supply:**
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Reptg. Residential Ratepayers:
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Suzanne G. Amidon, Esq.
Steven E. Mullen, Asst. Dir./Electric Div.

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* * *

WITNESS PANEL: **RICHARD C. LABRECQUE**
 STEPHEN R. HALL
 GEORGE M. BALD
 THOMAS C. FRANTZ

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1 P R O C E E D I N G

2 CHAIRMAN GETZ: Okay. Good morning,
3 everyone. We'll open the hearing in Docket DE 11-184. On
4 August 23, 2011, Public Service Company of New Hampshire,
5 the Wood IPPs, DRED, and the Advocacy Staff of the Public
6 Utilities Commission filed a petition for approval of five
7 power purchase agreements. An order of notice was issued
8 on August 25, setting a prehearing conference that was
9 held on September 9, and, subsequently, a procedural
10 schedule was approved on September 22nd, culminating in
11 the hearing this morning.

12 So, with that, let's take appearances
13 please.

14 MR. BERSAK: Good morning, Chairman
15 Getz. And, it's a special privilege to have Special
16 Commissioner Ellsworth here this morning. Good morning.
17 Representing Public Service Company of New Hampshire, we
18 have Sarah B. Knowlton, Senior Counsel for the Company,
19 and I am Robert A. Bersak, Assistant General Counsel for
20 the Company.

21 CHAIRMAN GETZ: Good morning.

22 MS. ROSS: Good morning, Commissioner,
23 likewise, welcome to Commissioner Ellsworth.

24 CMSR. ELLSWORTH: Thank you.

1 MS. ROSS: My name is Anne Ross. I'm
2 General Counsel here at the Commission. And, with me
3 today is Commissioner Bald, who will be a witness in the
4 case, and Tom Frantz, Director of our Electric Division,
5 who is also a witness in the case.

6 CHAIRMAN GETZ: Good morning.

7 MR. SHULOCK: Good morning. My name is
8 David Shulock. I'm with the law firm of Olson & Gould.
9 With me is David Wiesner, also of the same law firm. And,
10 we're here representing the Wood IPPs.

11 CHAIRMAN GETZ: Good morning.

12 MR. RODIER: Good morning, Mr. Chairman.
13 Jim Rodier, for Freedom Energy Logistics and Halifax
14 American Energy Company.

15 CHAIRMAN GETZ: Good morning.

16 MS. HATFIELD: Good morning,
17 Commissioners. Meredith Hatfield, for the Office of
18 Consumer Advocate, on behalf of residential ratepayers.
19 And, with me for the Office is Steve Eckberg.

20 CHAIRMAN GETZ: Okay. Good morning.

21 MR. DAMON: Also representing
22 Non-Advocate Staff this morning, Commissioners, are
23 myself, Edward Damon, and Suzanne Amidon. And, with us
24 this morning is Staff Analyst Steven Mullen.

1 CHAIRMAN GETZ: Good morning. So, are
2 there any issues we need to address before the Joint
3 Petitioners proceed? Ms. Ross.

4 MS. ROSS: Yes. The parties have agreed
5 to enter a series of exhibits before we call the
6 witnesses, just to get them numbered so that we can have
7 access to them.

8 The first exhibit that the Staff
9 Advocates would like to ask the Commission to mark as
10 "Exhibit Number 1" is the initial Petition and attached
11 testimony that was filed in this case. I assume the
12 Commissioners have that?

13 CHAIRMAN GETZ: We do.

14 CMSR. ELLSWORTH: We do.

15 (The document, as described, was
16 herewith marked as **Exhibit 1** for
17 identification.)

18 MS. ROSS: And, I believe the Wood IPPs
19 have two exhibits to mark.

20 MR. SHULOCK: Yes. We have the revised
21 redacted versions of the PPAs. And, then, we have
22 excerpts of the confidential PPAs that we could enter as a
23 confidential exhibit. It shows the information that is
24 confidential in here.

1 CHAIRMAN GETZ: And, this is essentially
2 the package filed November -- dated "November 29th"?

3 MR. SHULOCK: Yes.

4 CHAIRMAN GETZ: Okay. And, you want to
5 mark the entire package for identification as "Exhibit
6 Number 2", is that the suggestion?

7 MR. SHULOCK: No.

8 (Atty. Shulock distributing documents.)

9 CHAIRMAN GETZ: Well, we have our
10 copies.

11 MR. SHULOCK: It would be an exhibit of
12 just the five redacted together, for ease of reference.
13 And, then, I need copies of the confidential. But it's
14 just an identifying page, and then this is the information
15 that's confidential, but it's visible. And, we would
16 submit this as a confidential exhibit.

17 CHAIRMAN GETZ: All right. Thank you.
18 Well, then, let's mark the redacted revised copies, Set
19 Number 1, the redacted versions of the PPAs, as "Exhibit
20 Number 2" for identification. And, we'll mark for
21 identification as "Exhibit Number 3" the confidential
22 subset of that package.

23 (The documents, as described, were
24 herewith marked as **Exhibit 2** and

1 **Exhibit 3**, respectively, for
2 identification.)

3 MR. BERSAK: And, in a similar manner,
4 Mr. Chairman, the Company has what we'd like to mark as
5 the next exhibit, which will be "Number 4" for
6 identification, the Rebuttal Testimony of Stephen R. Hall,
7 dated November 14, 2011.

8 CHAIRMAN GETZ: So marked.

9 (The document, as described, was
10 herewith marked as **Exhibit 4** for
11 identification.)

12 MR. DAMON: Non-Advocate Staff has one
13 exhibit that it would like to mark now, and it may wish to
14 try and introduce another exhibit later, but we'll hold
15 off on that one. The one that I would like to have marked
16 now in order, would be "Exhibit 5", would be a copy of the
17 Master Power Purchase and Sale Agreement that's referenced
18 in the Confirmation that is part of the revised redacted
19 PPAs that the Wood IPPs have introduced as "Exhibit 2".

20 CHAIRMAN GETZ: So, I'm sorry. So, this
21 is a -- oh, that it's not a subset of, --

22 MR. DAMON: No.

23 CHAIRMAN GETZ: -- it's something
24 referenced in Exhibit 2?

1 MR. DAMON: Yes. And, do you want me to
2 pass these out to you now?

3 (Atty. Damon distributing documents.)

4 CHAIRMAN GETZ: Okay. So, the Master
5 Power Purchase and Sale Agreement will be marked for
6 identification as "Exhibit 5".

7 (The document, as described, was
8 herewith marked as **Exhibit 5** for
9 identification.)

10 MR. DAMON: Okay. Also, Non-Advocate
11 Staff is willing to have marked at this time as "Exhibit
12 6" Steven Mullen's direct testimony that's been prefiled
13 in this docket. And, I think everybody should have a copy
14 of that.

15 CHAIRMAN GETZ: Okay. So marked.

16 (The document, as described, was
17 herewith marked as **Exhibit 6** for
18 identification.)

19 MR. DAMON: And, then, as well, as
20 "Exhibit 7", Non-Advocate Staff yesterday received an
21 updated supplemental response that goes to -- it's a
22 supplemental data response to Non-Advocate Staff 1-5 that
23 the original version of which was attached to Mr. Mullen's
24 testimony as "Attachment SEM-7". So, we'd like that

1 marked as well, along with his direct testimony.

2 CHAIRMAN GETZ: Do you have that
3 document available now?

4 MR. DAMON: I do. I think all the
5 parties have it.

6 (Atty. Damon distributing documents.)

7 CHAIRMAN GETZ: Okay. We'll mark for
8 identification as "Exhibit Number 7" a two-page document
9 dated November 29, that is a supplemental response to
10 Non-Staff Data -- Non-Advocate Staff Data Request 1-5.

11 (The document, as described, was
12 herewith marked as **Exhibit 7** for
13 identification.)

14 CHAIRMAN GETZ: Are there any other
15 premarking that we should take care of now?

16 MS. ROSS: I think, with that, I'd like
17 to call -- we're going to -- the Joint Petitioners are
18 going to present a panel of witnesses. So, I would like
19 to call Commissioner Bald, --

20 CHAIRMAN GETZ: Well, let's hold one
21 second for that. I just wanted to address a couple of
22 administrative matters. Intention is to take a lunch
23 recess at noon, and then, basically, take a little more
24 than an hour, maybe an hour or so for the lunch recess.

1 We have to adjourn by 4:00 today. I have to be at a
2 meeting at the State House. So, I guess it's not clear to
3 me if this is a hearing that could be finished today, but
4 we do have tomorrow reserved, if we need that. So, that's
5 how I propose we proceed today. And, some of that, I
6 guess, Mr. Patnaude, I would anticipate that we'd not be
7 taking an afternoon recess, depending on how the hearing
8 is going.

9 The other thing is, in a hearing of this
10 nature, we do allow for public comment, can either happen
11 at the beginning or at the end of the hearing. So, is
12 there anyone who would like to make a public comment
13 today? Senator.

14 SEN. FORRESTER: Thank you,
15 Commissioners. I'm Jeanie Forrester, the State Senator
16 for District 2. And, I'm here today to again urge the
17 Commission to approve these power purchase agreements. I
18 did send a letter dated August 16th regarding this. And,
19 I just, I'm sure you probably have this information, but I
20 think it bears repeating. Due to the depressed
21 electricity and renewable power markets' negative impact
22 on the biomass power plants, they're in jeopardy of
23 closing. We're talking about close to a thousand jobs in
24 the North Country. And, in this economy, we can't let

1 that happen.

2 There's some economic data from the New
3 Hampshire Timberland Owners Association and the UNH
4 Cooperative Extension that the data estimates total direct
5 economic impact on the closing, the wood purchases and
6 operational costs, more than 38 million a year. The total
7 direct and indirect economic contribution from the power
8 plants to New Hampshire's economy is just over 110 million
9 annually. And, that's based on a 2002 study from DRED.

10 So, this is very important to the North
11 Country. I urge you to pass these power purchase
12 agreements. Thank you.

13 CHAIRMAN GETZ: Thank you. Is there
14 anyone else who would like to make a public comment before
15 we proceed with the witnesses?

16 (No verbal response)

17 CHAIRMAN GETZ: Seeing no other public
18 comment, then, Ms. Ross.

19 MS. ROSS: Thank you, your Honor. So, I
20 would like to call our panel. That would be Commissioner
21 George Bald, Tom Frantz, Stephen Hall from PSNH, and Rick
22 Labrecque also from PSNH.

23 CHAIRMAN GETZ: So, then, Ms. Ross, the
24 plan is to address Mr. Hall's rebuttal testimony now?

1 MS. ROSS: Yes. We are proposing that
2 these witnesses be available for all of the -- whatever
3 testimony they filed. We would also ask the Commission to
4 allow us to do one slight modification of our normal
5 practice, and that is to have Commissioner Bald do his
6 quick summary of direct and be subject to
7 cross-examination before the rest of the panel, so that he
8 can be excused, and then we will proceed with the other
9 three witnesses, if that will work. His schedule doesn't
10 permit him to be here all day today.

11 CHAIRMAN GETZ: Any objection by anyone
12 to those proposed processes?

13 (No verbal response)

14 CHAIRMAN GETZ: Hearing none, then
15 please proceed.

16 MS. ROSS: Thank you. If they may be
17 sworn.

18 (Whereupon **Richard C. Labrecque**,
19 **Stephen R. Hall**, **George M. Bald**, and
20 **Thomas C. Frantz** were duly sworn by the
21 Court Reporter.)

22 **RICHARD C. LABRECQUE, SWORN**

23 **STEPHEN R. HALL, SWORN**

24 **GEORGE M. BALD, SWORN**

1 **THOMAS C. FRANTZ, SWORN**

2 **DIRECT EXAMINATION**

3 BY MS. ROSS:

4 Q. Gentlemen, would you please, each of you, give your
5 name and your employment for the record, beginning with
6 Commissioner Bald.

7 A. (Bald) My name is George Bald. I'm Commissioner of the
8 Department of Resources and Economic Development.

9 A. (Frantz) My name is Tom Frantz. I'm the Director of
10 the Electric Division at the New Hampshire Public
11 Utilities Commission.

12 A. (Hall) My name is Stephen R. Hall. I'm Rate and
13 Regulatory Services Manager for PSNH.

14 A. (Labrecque) My name is Richard Labrecque. I'm the
15 Manager of Supplemental Energy Sources at PSNH.

16 Q. And, gentlemen, I have what's been marked as "Exhibit
17 1", which is the Joint Petition in this case. I'd like
18 you to, Commissioner Bald, if you would begin, and in
19 that filing is a copy of your prefiled written
20 testimony. And, do you affirm today that that is, in
21 fact, your written testimony that was prepared under
22 your supervision, and that it's true and correct to the
23 best of your knowledge today?

24 A. (Bald) Yes.

1 Q. And, Mr. Frantz, in the package is your prefiled
2 written testimony. And, do you affirm that that
3 testimony was, in fact, prepared by you and that it
4 remains to the best of your knowledge true and correct
5 today?

6 A. (Frantz) Yes.

7 Q. And, with regard to Mr. Labrecque, your written
8 testimony is also attached. Is that, in fact, the
9 testimony that you prepared or was prepared under your
10 supervision, and is it true and correct to the best of
11 your knowledge today?

12 A. (Labrecque) Yes, with one exception. If I were
13 preparing my testimony today, I would have provided a
14 more updated number of the estimated over-market cost
15 of these agreements. In the original testimony, I
16 believe the number was 24 million. Using some updated
17 analyses, today's figure is 25.2 million.

18 Q. Okay. Thank you. Mr. Hall, your testimony is not in
19 that package, so I will have to have your counsel
20 authenticate that for you. Commissioner Bald, would
21 you please briefly summarize the public policy issues
22 that you have brought to light in this proceeding for
23 the Commission?

24 A. (Bald) I got involved in this project as part of

1 economic development, and my agency also is responsible
2 for forests and lands. So, I have a keen interest in
3 what occurs in our forests. The issue came about of
4 the difficulties that the independent power producers
5 were having because of the expiration of contracts.
6 And, I felt that it was important for the state to be
7 involved in some type of a solution for that, and
8 worked diligently through, with the Governor's Office,
9 to try to find a solution to the issues for the Berlin
10 Biomass and the independent power producers. And, so,
11 we're here now for this support of the purchase power
12 agreements. And, I think it is good public policy for
13 us to support this. And, I would strongly be
14 supportive and have indicated in my testimony that we
15 should go forward with this.

16 MS. ROSS: Thank you. I would like to
17 make Commissioner Bald available for friendly cross, if
18 there is any, and then for adversarial cross.

19 CHAIRMAN GETZ: Mr. Bersak, any
20 questions?

21 MR. BERSAK: No questions, Mr. Chairman.

22 CHAIRMAN GETZ: Mr. Shulock, any
23 questions?

24 MR. SHULOCK: Yes.

CROSS-EXAMINATION

BY MR. SHULOCK:

Q. Commissioner Bald, in your testimony you talked about the economic benefits of the continued operation of the Wood IPP plants, but you didn't talk about state and local tax payments. Have you estimated the state and local tax payments that can be attributed to the wood plant operations?

A. (Bald) Yes. In working with the New Hampshire Timberland Owners, there are a number of different fees and taxes that are paid by the independent power producers. Just one second. And, some of that has to do with PILOT program payments, the Payment In Lieu of Taxes that the IPPs pay, as well as the statewide utility taxes, business enterprise taxes, emission fees, and that totals a little over a million, about a million one [1.1 million]. There are also the producers, they have payroll taxes, unemployment taxes, vehicle registrations, which affect local communities, fuel and road taxes, vehicle registrations. So, that comes to approximately a million six [1.6 million]. So that the total for taxes, just at the state and local level, is about 2.8 million.

Q. Now, yesterday you served on all the parties a

1 supplemental data request to Staff Set 1, Question 5,
2 which has been marked as "Exhibit 7". Is that a
3 summary of what you've just told us?

4 A. (Bald) It is.

5 Q. Have you done any -- has your office done any studies
6 recently of the multiplier effect associated with wood
7 purchases or tax payments by the Wood IPPs?

8 A. (Bald) We have not on -- certainly on this specific
9 issue. But I can tell you that my agency has
10 considerable information on the multiplier effects,
11 because it happens not only in the woods, but almost in
12 all industries. And, so, we try to pay attention to
13 how those things occur. And, so, I think it's still
14 clear that there is -- there are numerous jobs that are
15 saved as a result of this. And, it would make a big
16 difference for the communities and the citizens if
17 these power plants shut down because they didn't have
18 these agreements with Public Service.

19 I think, you know, when you look at
20 multiplier effects, and if I'm answering more than I
21 should, you can tell me to stop, but, you know, I
22 always look at it is, "how does it affect our
23 citizens?" And, there are numerous ways that that
24 occurs. That, in my twelve years as commissioner, I've

1 learned on the importance of having a market for all
2 woods. That we don't cut trees just for low-grade
3 hardwood. That we're cutting trees for sawlogs, for
4 dimensional lumber, and a lot of reasons. And, having
5 that market for all of those is really crucial. And,
6 so, if we lost a good market for low-grade hardwood for
7 chips, it would really impact the state in other ways.

8 We're the second most forested state in
9 the country. As part of Economic Development, I'm fond
10 of telling people that "having a heavily forested state
11 is as important to our economy as having water and
12 sewer in Manchester." That our ability to attract
13 companies is enhanced by having a good, healthy forest,
14 and having the demand for low-grade wood does make a
15 difference. It also helps that there's a lot of open
16 space. Generally, our Forest Department does --
17 encourages sustainable forestry initiatives. So, we
18 work closely with a lot of people that are cutting the
19 trees. And, then, it kind of comes down to the jobs of
20 the people involved; both people at work in the
21 facilities, but also the people that are the truckers
22 that move the product, the skidder operators that are
23 taking the product out of the woods, the mechanics that
24 are sending their children to local schools and paying

1 their property taxes by the money that they're earning
2 by maintaining that equipment.

3 So, while we haven't done a detailed
4 analysis of the multiplier effect, I can tell you that
5 it is substantial. And, as the senator had mentioned
6 in her opening remarks, it really grows and grows and
7 grows, and does make a big difference.

8 Q. Thank you. Would it change your analysis at all if you
9 knew that wood fuel markets are regional, and that the
10 Wood IPPs purchase some of their fuel from sources out
11 of state?

12 A. (Bald) Not at all. I think that there's -- it's
13 important for us to remember that economic activity
14 doesn't stop at the border. It's healthy for us to
15 have things go back and forth. And, while they, even
16 if they're buying their wood from another state, people
17 in other states are buying their equipment from us,
18 they're maybe having some of the maintenance occur.
19 Things work back and forth. It wouldn't affect my
20 decision to support this at all.

21 MR. SHULOCK: Thank you. Those are all
22 of my questions.

23 CHAIRMAN GETZ: Thank you. Mr. Rodier?

24 MR. RODIER: No questions, Mr. Chairman.

1 CHAIRMAN GETZ: Ms. Hatfield?

2 MS. HATFIELD: Thank you. Good morning,
3 Commissioner Bald.

4 WITNESS BALD: Good morning.

5 BY MS. HATFIELD:

6 Q. In your testimony, on Page 4, down on Line 23, you
7 refer to this "[allowing] the State to implement an
8 economic development plan for the North Country." Do
9 you see that?

10 A. (Bald) I do.

11 Q. Is that a plan that is already in place or is it one
12 that's under development?

13 A. (Bald) I think my thoughts there were, it's a
14 combination of things that my agency is doing in
15 coordination with some of the plan that is being done
16 in the Berlin/Gorham area for their economic
17 activities.

18 Q. On the next page, you refer to activities in the City
19 of Berlin. Is the Berlin Biomass power plant being
20 built and moving forward?

21 A. (Bald) It is indeed.

22 Q. Further down on Page 5, you refer to two statutes, "RSA
23 227-G" and "RSA 227-J". Do you see that?

24 A. (Bald) Yes.

1 Q. Are you asking or suggesting that the Commission base
2 its decision approving the PPAs on those statutes?

3 A. (Bald) I'm not going to --

4 MS. ROSS: I'd like to object, in that I
5 think that's a legal question that calls for a legal
6 opinion. But I'll instruct the witness to answer to the
7 best of his knowledge.

8 MS. HATFIELD: And, Mr. Chairman, I
9 guess my response would be that the witness put those
10 statutes in his testimony, and I think his testimony
11 refers to the public policy benefits, and several of the
12 other witnesses refer back to his testimony as provided
13 support for why the PPAs are in the public interest.

14 CHAIRMAN GETZ: Well, I think it's fair
15 to inquire as to what the witness intended by putting
16 these citations in his testimony. So, without calling for
17 a legal opinion, if, Commissioner Bald, if you could
18 respond as to the intent of putting these statutes in your
19 testimony.

20 WITNESS BALD: Could you just repeat the
21 question, so I'm sure of it?

22 MS. HATFIELD: Sure.

23 BY MS. HATFIELD:

24 Q. The question was, are you suggesting that the

1 Commission should base its finding or its approval of
2 the PPAs on those two forestry statutes?

3 A. (Bald) And, I guess my answer is that I felt that these
4 reflected a -- that it was in the public interest. But
5 I'm sure that the Commissioners will use whatever
6 statutes they would find necessary to approve it.

7 Q. On Page 6 of your testimony, in the last sentence, on
8 Line 13 you refer to "the State [working] out a more
9 long-term sustainable policy." And, I'm wondering, are
10 you referring to something specific or just general
11 policies to support the wood industry?

12 A. (Bald) We, my agency, through Brad Simpkins, who is the
13 Director of Forests and Lands and the Chief Forester
14 for the State, has been working with a group of
15 legislators on finding new policies to -- that could
16 take place or could be worked on over the next session
17 of the Legislature.

18 Q. And, are you aware that there may be efforts in the
19 coming session to amend the Renewable Portfolio
20 Standard law?

21 A. (Bald) Yes.

22 Q. And, are your efforts also focusing on that law as
23 well?

24 A. (Bald) Our Director of Forests and Lands is involved in

1 that work.

2 MS. HATFIELD: Thank you. Oh, I have
3 one other question.

4 BY MS. HATFIELD:

5 Q. Commissioner Bald, I think you just testified that the
6 Berlin Biomass plant is moving forward, correct?

7 A. (Bald) Yes.

8 Q. So, if the Commission doesn't approve these PPAs, that
9 wouldn't impact the Berlin plant, is that right?

10 A. (Bald) It would not impact the Berlin plant, but I
11 think it would impact me. I would say that, in my
12 career in government, that one of the things that
13 drives me crazy is bait and switch. And, I certainly
14 felt a very strong interest in being involved with
15 this, because I felt that the IPPs and Public Service
16 had a compelling argument to do this. And, even if the
17 Berlin Biomass is going forward, I think I have a moral
18 obligation, and I think a very important obligation, to
19 continue to support this for the people that work there
20 and the people that are dependent on the people that
21 work there. It's -- if we're talking about 240
22 employees, we're talking about 240 families, and that
23 need doesn't go away.

24 MS. HATFIELD: Thank you. I have

1 nothing further.

2 CHAIRMAN GETZ: Mr. Damon.

3 MR. DAMON: Thank you.

4 BY MR. DAMON:

5 Q. To follow up on Ms. Hatfield's questions on the status
6 of Berlin Station, in your testimony, Commissioner
7 Bald, you refer to certain things that are going to --
8 were expected to happen with the various tax credits
9 and community benefit funds and so forth, and some of
10 them appear to affect Isaacson Structural Steel. Has
11 the expected rearrangements of those tax credits and
12 community benefit fund benefits, has that occurred in
13 connection with the financial closing of the Berlin
14 Station Project?

15 A. (Bald) It has. On the closing, that some of the money
16 from the New Market Tax Credits was transferred to the
17 City of Berlin, as well as the Business Finance
18 Authority to establish this loan pool.

19 Q. Okay. Another question. Were you involved in the
20 negotiating -- in helping to negotiate the terms of the
21 wood PPAs?

22 A. (Bald) The agreements themselves?

23 Q. Yes.

24 A. (Bald) I was not.

1 Q. You were not?

2 A. (Bald) Right.

3 Q. Finally, Mr. Mullen, in his testimony, has referred to
4 a particular statute, it's RSA 362-A:8. And, there are
5 five factors listed there in connection with II(b).
6 And, I would like to show a copy of those factors, and
7 ask if you could address your opinion as the extent to
8 which the Wood PPAs would address those factors. And,
9 I'm not asking you to testify as to whether that
10 statute applies or not, that's a legal question. But,
11 if you look at those factors, how do you assess the
12 proposal to approve the Wood PPAs?

13 A. (Bald) Well, the first one is "the economic impact [on]
14 the state, including, not limited to, job loss or
15 creation through the utilization of indigenous fuels
16 [in electrical] generation", I think is certainly
17 evident there. "The community impact, not limited to,
18 property tax payments and job creation", that certainly
19 has an effect. "Enhanced energy security by utilizing
20 mixed energy sources, [again] including indigenous and
21 renewable electrical energy", that certainly supports
22 that. "Potential environmental and health-related
23 impacts", I think that that certainly helps there.
24 And, "the impact on electric rates." You know, again,

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1 it's a legal, and so this is as far as I can go on
2 this.

3 MR. DAMON: Appreciate that. I would
4 ask the Commission's indulgence in having Mr. Mullen ask a
5 couple of questions on Exhibit 7, and I think they're
6 largely for clarification purposes. But I'll --

7 MR. MULLEN: Good morning, Commissioner
8 Bald.

9 WITNESS BALD: Good morning.

10 BY MR. MULLEN:

11 Q. If we turn to the attachments that has the numbers, I
12 just want to be clear, on the top section that's headed
13 "IPP", there's a notation for the "Business Enterprise
14 Tax" column, and says it "Does not include Pinetree
15 Tamworth and Pinetree Bethlehem." Just to be clear,
16 all the other columns do? That's the only one that
17 excludes those two plants?

18 A. (Bald) I believe that's correct.

19 Q. Okay. And, for the section on "Producers", if we flip
20 back to the text of the response, in the middle of that
21 response there's a statement that reads "With regard to
22 taxes and fees paid by the biomass fuel suppliers, it
23 is my understanding that the Timberland Owners
24 Association surveyed New Hampshire-based fuel suppliers

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1 providing approximately 50 percent of the biomass fuel
2 consumed in the state." Is that correct?

3 A. (Bald) Yes.

4 Q. If I turn the page, and I look at the numbers in the
5 "Producers" section, does that mean that the amounts in
6 the columns starting on the left with "Payroll Tax",
7 and going as far over as "Federal Heavy Use Tax", are
8 those at 50 percent?

9 A. (Bald) I don't know the answer to that.

10 Q. What I'm trying to do is --

11 A. (Bald) Right, if it's doubled what is shown there?

12 Q. Right. I'm trying to just be clear as to whether these
13 numbers are 50 percent, already inflated to assume
14 100 percent, or if these numbers are strictly at
15 50 percent? I understand the column, as I see for
16 "Timber Tax", should be at 100 percent. I just want to
17 be clear as to what numbers we're dealing with here?

18 A. (Bald) You know, without having asked that specific
19 question, I don't want to venture -- it would be a
20 guess on my part that they are using the 50 percent
21 numbers.

22 MR. MULLEN: Could we reserve a record
23 request to get clarification of that question?

24 CHAIRMAN GETZ: Yes. Let's reserve

1 Exhibit 8 for follow-up on the Non-Advocate Staff Data
2 Request 1-5.

3 (Exhibit 8 reserved)

4 MR. MULLEN: Thank you.

5 MR. DAMON: Thank you. Non-Advocate
6 Staff has no further questions.

7 CHAIRMAN GETZ: Thank you. Commissioner
8 Ellsworth.

9 BY CMSR. ELLSWORTH:

10 Q. Commissioner Bald, you responded to Ms. Hatfield that
11 you I think agreed that not all of the wood would come
12 from New Hampshire. That there was a market, a
13 regional market, not just a statewide market?

14 A. (Bald) Yes.

15 Q. And, there's some -- I know there has been the interest
16 in the past that one of the benefits that accrues to
17 New Hampshire is that a lot of things happen in New
18 Hampshire and not in other states. Could you go into a
19 little more detail about, and maybe put into a little
20 better perspective, how much of this, the wood product,
21 will come from New Hampshire and how much will come
22 from outside, and why benefits will accrue to New
23 Hampshire from the wood that's purchased outside?

24 A. (Bald) I think it would be difficult to say with

1 complete accuracy that you would have a specific number
2 every year. How wood is cut, where it's cut, and
3 weather conditions have great impacts on it. And, so,
4 there could be times when there's more being cut in New
5 Hampshire than Maine, because of a variety of reasons,
6 again, weather has a big impact. So, it kind of moves
7 all over the place. But I think it's important that
8 there is -- by having a regional wood basket, it does
9 allow more opportunities for people to buy and sell,
10 and it takes into consideration those differences that
11 occur, with weather and seasonal changes.

12 Q. Help me please with the tax structure of, when wood is
13 cut in New Hampshire and burned in New Hampshire, what
14 are the tax implications to the State of New Hampshire?

15 A. (Bald) Well, when wood is cut in the state, first, the
16 community gets a Timber Tax, and then the truck that,
17 in effect, hauls the wood is paying taxes upon
18 registering the vehicle, that part of that goes to the
19 community, part of it goes to the State. The fuel
20 that's put in there, there's both state and federal
21 taxes. I don't know what the federal numbers are,
22 because that's -- the Feds just get that number. And,
23 then, obviously, it's brought into the facility, the
24 purchase of that wood is -- inures the benefit to the

1 landowner. And, if that's in New Hampshire, then that
2 certainly, again, helps not only from a financial point
3 of view, but, as I mentioned earlier, it helps us to
4 have a strong forest and helps us to have people want
5 to keep their property in forest product use, which
6 allows public access generally to the forests. We're
7 very fortunate in this state. We're allowed to go
8 anywhere we want pretty much, unless land's posted, and
9 that's not the case in many other states. It's a real
10 gift to our citizens and our visitors. And, I think
11 that that's an added benefit of cutting trees and
12 having a good, strong market.

13 Again, you know, we're not a single
14 state, and having the benefits of wood move back and
15 forth, certainly, I want to see as much wood in our
16 state. But, if we ran into a difficult spring or a
17 protracted spring or a early thaw or a late fall, if we
18 have weather that's different than parts of Maine, I
19 wouldn't want our foresters or the IPPs not to be able
20 to acquire wood from other states.

21 Q. Are there tax benefits that accrue to New Hampshire as
22 the result of the purchase of wood from outside the
23 state?

24 A. (Bald) The --

1 Q. Besides the normal --

2 A. (Bald) Right.

3 Q. -- truck registrations and all that?

4 A. (Bald) Certainly, I would suspect that the fuel is
5 still an issue. And, again, there's -- state lines
6 don't differentiate between, you know, where the
7 equipment is purchased or if there is equipment that
8 has to be maintained, there are a number of companies
9 in the northern part of the state that do maintenance
10 and sell new equipment, whether it's skidders or other
11 equipment that's used to take the low-grade hardwood
12 out of the forests.

13 Q. But we don't gain any stumpage fees or anything from
14 anything that's purchased outside the state, is that
15 correct?

16 A. (Bald) I believe that's correct.

17 Q. You also mentioned that, and your, I think, policy have
18 always said that you focus on low-grade timber, as
19 opposed to high-grade timber?

20 A. (Bald) Oh, I didn't mean to give that impression.

21 Q. Well, that's what I wanted to ask you to explain
22 further, please.

23 A. (Bald) When trees are cut, the idea is that the most
24 value comes from a beautiful 36-inch around maple or

1 36-inches across, diameter, that they can use, you
2 know, it really has great value. But, then, when
3 you're taking those trees out, as you have the
4 low-grade wood come off of that, then you have --
5 having a market for that really helps to kind of add to
6 the benefit of cutting those large trees. We would
7 never want to be in a position of having people cut
8 trees just for chips. We want that as kind of a
9 byproduct of cutting trees for lumber, again, you know,
10 dimensional lumber and real high grade. So, if
11 somebody is buying wood, they're cutting it, using it
12 to manufacture furniture, but using other wood to burn,
13 that would just be either left on the forest floor and
14 not cut at all. The foresters also will cut other
15 trees that are, you know, wouldn't grow to a height or
16 width that would allow it to be used for lumber or
17 veneer, then it helps to make our forests that much
18 healthier.

19 Q. And, how would you respond to a critic that suggested
20 that "at times high-grade lumber was being used just
21 for chips"?

22 A. (Bald) I would say that that's why we put a lot of
23 effort into trying to find and support people who are
24 trying to find markets for really good quality lumber,

1 because we don't want to be in that position. So,
2 we're trying to find markets for all of them. The more
3 that that occurs, the better it is for everybody and
4 the more profitable it is.

5 Q. Does your office monitor that kind of cutting?

6 A. (Bald) We, our Forests and Lands, has quite a bit, a
7 number of programs. We inspect a lot of the cuts that
8 are going on around the state, and try to get people to
9 adhere to the Sustainable Forestry Initiatives, which
10 works very carefully to outline how people cut trees,
11 what type of process they use, how much that they
12 leave, and how the forest is left, in terms of whether
13 you're dragging trees or cutting them and just cutting
14 in place and not causing environmental harm. So, we do
15 monitor that.

16 Q. And, finally, the context that brings us here is for a
17 very limited contract period. And, you have been very
18 supportive of this limited contract period. Could you
19 give us a sense of where you're going to be at the end
20 of the contract period and how you will monitor and
21 bring back to this Commission, if necessary, the
22 results of the satisfaction or the lack of satisfaction
23 of how the program evolved over that period?

24 A. (Bald) Well, certainly, it's our hope that, through the

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1 next session of the Legislature, that there can be
2 other pieces of public policy that are passed that
3 would allow the IPPs to be able to move forward in
4 maybe a little bit of a different fashion than they are
5 now, but it will allow them to keep moving. So, we're
6 certainly paying close attention. And, as I said, the
7 Director of Forests and Lands is heavily involved in
8 those meetings to work with the Legislature.

9 CMSR. ELLSWORTH: Thank you,
10 Commissioner Bald.

11 WITNESS BALD: Thank you.

12 CHAIRMAN GETZ: Okay. Ms. Ross, any
13 redirect?

14 MS. ROSS: No. None.

15 CHAIRMAN GETZ: Okay. Then, nothing
16 further for Commissioner Bald, and you're excused. Thank
17 you.

18 WITNESS BALD: Thank you. I apologize.
19 I have to go to Governor and Council. I would rather stay
20 here.

21 CHAIRMAN GETZ: I understand completely.

22 WITNESS BALD: Thank you very much.

23 MR. BERSAK: Procedurally, Mr. Chairman,
24 it would probably be a good time for me to take care of

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1 authenticating Mr. Hall's testimony, which has been marked
2 for identification as "Exhibit Number 4".

3 **DIRECT EXAMINATION (Resumed)**

4 BY MR. BERSAK:

5 Q. Mr. Hall, did you prepare prefiled testimony of ten
6 pages and two attachments that's been identified as
7 "Exhibit Number 4" in this proceeding?

8 A. (Hall) Yes, I did.

9 Q. Do you have any updates or corrections to the testimony
10 that has been submitted?

11 A. (Hall) No.

12 Q. If you were asked those same questions today, would
13 your responses remain the same?

14 A. (Hall) Yes.

15 MR. BERSAK: Thank you. Nothing
16 further, Mr. Chairman.

17 MS. ROSS: Thank you.

18 BY MS. ROSS:

19 Q. Gentlemen, I would like to ask, I guess first Mr.
20 Frantz, to do a quick summary of your -- what you
21 presented in the case for testimony. And, then, Mr.
22 Frantz will be available for friendly and adversarial
23 cross.

24 A. (Frantz) The purpose of my testimony was to provide a

1 background and description of the Staff's role in these
2 negotiations, from the beginning, through the
3 negotiation process, and what the goals were in some of
4 the objectives of the State, and certainly of the
5 parties involved, so that the Commission would have a
6 context upon which to review these PPAs.

7 MS. ROSS: Are there people who --

8 CHAIRMAN GETZ: So, are we all set then
9 with all three, all three witnesses to be available for
10 cross? So, then, let's start, I guess, Mr. Bersak, do you
11 have any questions for Mr. Frantz?

12 MR. BERSAK: No, we do not, Mr.
13 Chairman.

14 CHAIRMAN GETZ: And, Ms. Ross, do you
15 have any questions for the PSNH witnesses?

16 MS. ROSS: No, I don't.

17 CHAIRMAN GETZ: Okay. Mr. Shulock?

18 MR. SHULOCK: I have questions for both.

19 CHAIRMAN GETZ: Proceed. Have I covered
20 all of the friendly possibilities?

21 MR. SHULOCK: We do have a request by
22 Mr. Rodier, who has to leave to go to a meeting of some
23 sort, whether he can do his cross-examination before we
24 do. And, we have no objection to that, if the Commission

1 allows him to.

2 CHAIRMAN GETZ: Does anybody have any
3 objection?

4 (No verbal response)

5 CHAIRMAN GETZ: Hearing none, then,
6 Mr. Rodier.

7 MR. RODIER: Thank you, Mr. Chairman.
8 Mr. Chairman, just a question on the protocol here. If I
9 ask Mr. Frantz a question, it's all right with me, I just
10 want to clear it up, can the other two witnesses
11 supplement his response? Or, if I -- well, let me just
12 ask that question. What's your view on that?

13 CHAIRMAN GETZ: Well, as a matter of
14 process, if you want to ask a question specifically to a
15 witness, then you can ask that witness your specific
16 question. If you don't have any personal preference about
17 who answers any general question, then you may ask that,
18 you can ask the question generally.

19 MR. RODIER: Right. Okay.

20 **CROSS-EXAMINATION**

21 BY MR. RODIER:

22 Q. So, Mr. Frantz, I have a question for you. And, by the
23 way, I would, just to lead in with this, in your
24 capacity at the Commission, you're in charge of like

1 least cost planning, is that correct?

2 A. (Frantz) The Electric Division has numerous
3 responsibilities, and least cost planning is one of
4 them.

5 Q. Okay. And, that's supposed to take sort of a big
6 picture look and integrate all of the factors that
7 would pertain to energy, or electricity anyway. And,
8 it would -- wouldn't it encompass some of the issues
9 that we're talking about here today?

10 A. (Frantz) In general, yes.

11 Q. Okay. Well, here's what I'm asking is, what's
12 happening? You know, we have a couple of Least Cost
13 Plans from PSNH. We've had a hearing at the Site
14 Evaluation Committee on wood, and the plight of the
15 SPPs. We had a hearing here on the Rate Agreement.
16 I'm just wondering, and not to belabor this at all, but
17 let me try to be affirmative about this. Do you think
18 that there, rather than letting something build up to a
19 fever pitch, you know, a crisis, do you think there's a
20 better way to try to resolve issues than what we've
21 done here?

22 A. (Frantz) Could you be more specific? That kind of is
23 rather broad.

24 Q. Well, we have a situation here where, you know, there

1 was a deadlock, and it held up the construction of the
2 Berlin plant, and an appeal with the court. I'm just
3 saying, is that the right way to make policy?

4 A. (Frantz) Sometimes it takes deadlines and stress and
5 pressure to get things done. I think the least cost
6 planning process has a valuable role to play at a
7 certain level, that integrates supply-side and
8 demand-side options and forecasts, and provides a
9 general template for where you go over a certain period
10 of time. But, when it comes right down to the details,
11 whether it's purchasing from a 75 megawatt large new
12 biomass project, or it's incorporating the needs and
13 interests of the state for certain small wood projects
14 over a certain period of time, I think that's when
15 least cost planning can help. But you end up sometimes
16 in processes like we were in this case.

17 Q. So, least cost, that's a framework, really, and you're
18 going to have particular flare-ups from time to time is
19 what you're saying on specific issues?

20 A. (Frantz) I think that the specifics will always be
21 details that we work out at the Commission, usually
22 with testimony and hearing.

23 Q. All right. Thank you very much. Mr. Frantz, your
24 testimony in this proceeding, I'm interested in the --

1 you know, my clients are in favor of these agreements,
2 as I've already said. But, being competitive
3 providers, you know, they are concerned about moving
4 costs out of a bypassable charge to a nonbypassable
5 charge. And, do you understand that concern?

6 A. (Frantz) Yes.

7 Q. And, you had that in mind when you were, I guess,
8 negotiating this deal, is that correct?

9 A. (Frantz) Ratemaking treatment was always a significant
10 issue running this in the negotiations.

11 Q. Right. And, PSNH made it an issue, is that correct?

12 MR. BERSAK: Objection. That calls for
13 speculation.

14 CHAIRMAN GETZ: Well, it seems to me
15 that, to the extent that the witness knows as a matter of
16 fact, he can answer the question.

17 MR. RODIER: Mr. Chairman, in his
18 testimony he said this was one of the demands that PSNH
19 put on the table. I'm not asking for anything that's not
20 in his testimony.

21 CHAIRMAN GETZ: Yes. I'll overrule the
22 objection.

23 MR. RODIER: Thank you.

24 **BY THE WITNESS:**

1 A. (Frantz) PSNH had its issues when it came to the table,
2 and one of them was that there really should be no
3 upward pressure on its energy service rates based on
4 any deals that were done here.

5 BY MR. RODIER:

6 Q. Okay.

7 A. (Frantz) And, a general format, I think, and interests
8 for all, even for myself and Ms. Ross, was some concern
9 about how the ratemaking treatment would go forward.

10 Q. Okay. So, basically, what happened is, and you
11 explained this in a pretty simple, but very clear
12 conceptual manner in your testimony, that there's going
13 to be above-market costs here, and it sounds like it's
14 maybe 25 million now over the duration of the
15 contracts, what we heard today, maybe eight and a half
16 annually. So, let's just say, for sake of discussion
17 here, eight and a half million a year over-market
18 costs, in order to create space for that in the default
19 energy rate, you moved it, roughly equivalent amount of
20 costs over to the distribution rate, is that correct?

21 A. (Frantz) That's the idea, and that's what we're
22 proposing, yes.

23 Q. Okay. And, would you agree with me that, as a result,
24 though, of these -- the result is, of the contracts, is

1 that there is going to be an increase in PSNH bills, is
2 that correct?

3 A. (Frantz) Correct.

4 Q. All right. It's just that the increase is not going to
5 be on the default energy side that can be bypassed, it
6 would be more on the delivery side?

7 A. (Frantz) Correct.

8 Q. Okay. Now, I recall Commission's order in Docket
9 10-160, there was customer migration, I'm sure you're
10 very familiar with it. And, am I correct? You've got
11 to be.

12 A. (Frantz) I've familiar with it.

13 Q. Yeah.

14 A. (Frantz) I don't have it in front of me.

15 Q. No. But --

16 A. (Frantz) Nor do I have it memorized.

17 Q. Well, let me ask you this. Do you recall that the
18 Commission said "moving bypassable costs over to the
19 nonbypassable side is not something, it's a bad idea
20 and we're not going to do it"? Do you recall the
21 Commission basically saying that?

22 A. (Frantz) Yes.

23 Q. Okay. So, then, how do you -- just tell me then,
24 because that was viewed -- in your perspective, was

1 viewed as a very good decision, a very enlightened
2 decision.

3 A. (Frantz) I believe all the Commission's decisions are
4 good decisions.

5 Q. Right. Particularly that aspect, okay, that's very
6 important to the competitive market. But let me -- my
7 question really is, how would you reconcile then what's
8 going on in this, right out of the box, no sooner does
9 the Commission say that in 10-160, you basically get in
10 here a filing that proposes to move bypassable costs
11 onto the wires?

12 A. (Frantz) Well, my first point on that was -- would be
13 that these are associated A&G costs, that were for a
14 long time in the distribution rate. They're not direct
15 costs of supplying power, such as fuel. And that, when
16 it comes down to ratemaking treatment, the Commission
17 has great plenary authority to actually look at costs
18 and determine, of course, whether they're just and
19 reasonable and where, in fact, they should be
20 recovered.

21 Obviously, the Commission thought for a
22 long time that these costs could be recovered in the
23 distribution rate. In my opinion, they're common
24 costs. They're not fuel costs, they're not labor costs

1 directly related to operating Merrimack Station or
2 Newington or Schiller. So, the costs here are those
3 types of costs that are never easy, actually, to
4 determine where they should be allocated, and there's
5 room for debate about those allocations. And, we
6 looked long and hard about how this would be best done,
7 and determined that moving these costs back to
8 distribution, for the short period of time that's
9 involved here, based on the benefits that are, I think,
10 numerous and well-documented, and as stated in
11 Commissioner Bald's testimony, makes that worth doing.

12 Q. Okay. So, let's break that response down. Do you --
13 you agree with me that, but for these contracts, there
14 would have been no transfer of these other costs we're
15 talking about back to the distribution rate?

16 A. (Frantz) Well, I think someone could propose it, but
17 then the burden of proof would certainly be on them to
18 move it.

19 Q. Right.

20 A. (Frantz) And, it probably would have been there until
21 it was an issue in another case, in an energy service
22 docket or a distribution rate case.

23 Q. Do you -- how did they end up in there anyway in the
24 first place, do you recall?

1 A. (Frantz) It came out of the distribution rate case in a
2 settlement.

3 Q. Okay.

4 A. (Frantz) I think it's --

5 Q. Everybody at that time said, "well, it should be on the
6 energy side, not the delivery side"?

7 A. (Frantz) It was part of a settlement agreement.

8 Q. Okay. Of course, the Commission approved it, had to
9 have approved it for it to have been done. So, now,
10 let's go back to, you thought a lot about the rate
11 design. So, what I want to ask you next is, obviously,
12 if the costs are recovered through the energy service
13 rate, it's recovered on a uniform cents per
14 kilowatt-hour basis, is that correct?

15 A. (Frantz) Correct.

16 Q. When they moved over to the distribution or wire side,
17 did they have any -- is the effect on customer classes
18 the same? Are they still recovered on a uniform cents
19 per kilowatt-hour basis?

20 A. (Frantz) No. And, it would somewhat depend on the rate
21 design in the distribution. In distribution, there are
22 --

23 (Court reporter interruption.)

24 **CONTINUED BY THE WITNESS:**

1 A. (Frantz) It would somewhat depend on the design in the
2 distribution. If it were, in fact, based on the
3 distribution rates as they are today, there's a per
4 kilowatt charge for certain classes of customers, so
5 that it would not be the same effect as on an energy
6 service charge basis.

7 BY MR. RODIER:

8 Q. Okay. All right. And, when I looked at the testimony,
9 it looked to me like the bill impact for the large
10 customers, on a percentage basis, were significantly
11 less than the impacts on the smaller customers, is that
12 correct? And, you know what, Mr. Hall --

13 A. (Frantz) Mr. Hall addressed this in his testimony.

14 Q. -- he's welcome to. Mr. Hall, let me ask you that
15 question. Just trying to get at, you know, the bottom
16 line here is I'm trying to just get on the record as
17 quickly as I can the fact that, when you move these
18 costs from one side of the bill to the other, that they
19 affect, you know, the effects on particular classes and
20 particular customers change, is that correct?

21 A. (Hall) That's correct, on a percentage basis.

22 Q. Okay. Can you put that in perspective how much? Like
23 residential versus a larger customer?

24 A. (Hall) I believe that was either in Mr. Frantz's

1 testimony or it was a data response, I don't recall
2 which.

3 Q. Okay.

4 A. (Hall) I'll have to find it.

5 Q. Okay. Well, let's move on then. Mr. Frantz -- or, one
6 more question for you, Mr. Hall. Is there anybody out
7 there who does -- that PSNH sells electricity to that
8 doesn't use the distribution system?

9 A. (Hall) On a retail basis?

10 Q. Yes. Let me give you the context of the question. Is
11 there any large customer that is paying it if it was in
12 the energy service rate that will avoid this entirely
13 when it's moved to the other side of the bill, because
14 they only use the transmission system and not the
15 distribution system?

16 A. (Hall) I didn't quite catch the beginning of your
17 question. Could you ask that again.

18 Q. I'm just trying to get at whether there is any large
19 customer out there that, under the business-as-usual
20 approach, if they were still with Public Service, would
21 pay a default energy charge? Do you follow me so far?

22 A. (Hall) Okay. I'm with you.

23 Q. And, then, you move it to the other side of the rate,
24 let's say that they don't use the distribution system,

1 so they don't -- they're only paying transmission
2 charges, let's say. Is there anybody out there that's
3 in that category that would not have to pay this?

4 CHAIRMAN GETZ: Let me make sure I
5 understand the question. So, are you asking, Mr. Rodier,
6 does PSNH deliver electricity at the transmission level to
7 any customers that delivers Default Service at the
8 transmission level?

9 MR. RODIER: The idea is, they're not
10 going to, if it's in the distribution rate, they don't pay
11 it, if that's where it ends up. That's all I'm trying to
12 get at. And, thank you very much.

13 BY MR. RODIER:

14 Q. You want to get back to that on us or --

15 A. (Hall) Yes. No customers are coming to mind off the
16 top of my head. I'd have to look at our tariff.

17 Q. How about our friends at Seabrook?

18 A. (Hall) Backup Service customers?

19 Q. Yeah.

20 A. (Hall) Served at 115 kV?

21 Q. Yeah.

22 A. (Hall) I believe they do not pay distribution charges.
23 So, yes. You're correct.

24 Q. Okay. Now, let's see, can't read my writing here. Mr.

1 Frantz, you said -- did you say it's "not going to last
2 very long", or what did you say, "short duration"?

3 A. (Frantz) I said the PPAs are "fairly short-term".

4 Q. Okay. Now, did I notice that there might be a little
5 bit difference of opinion between you and PSNH as to
6 whether this is permanent or whether it is just
7 short-term?

8 A. (Frantz) That was asked and answered in a data
9 response.

10 Q. Okay. And, what's the -- let's just get it on the
11 record here. What does that come down -- Well, tell me
12 what the joint position is then, as to whether, once
13 these deals roll off and expire, are these costs going
14 to the next day show up back in the Default Service
15 rate?

16 A. (Frantz) Well, once the costs are recovered, they will
17 end at that point, when all the costs over market are
18 recovered.

19 (Court reporter interruption.)

20 **CONTINUED BY THE WITNESS:**

21 A. (Frantz) When the over-market costs are recovered, in
22 my opinion they will end at that point.

23 BY MR. RODIER:

24 Q. Does that mean that any costs that were moved over to

1 the delivery side will then go back to the default
2 side?

3 A. (Frantz) I think that's for the Commission to decide.

4 Q. What's your position? What do the Joint Petitioners --

5 A. (Frantz) My position is at this time that, when those
6 costs are recovered, we revert back to where we were.
7 And, if someone wants to make a filing at that time to
8 see whether or not that should happen, they can --
9 there's appropriate dockets to do so.

10 Q. Okay. So, you're saying you think then that this could
11 be unwound and the costs that we're talking about
12 moving over to the distribution rate would go back to
13 the default rate. That's more or less, though, your
14 personal position, right?

15 A. (Frantz) Correct.

16 Q. Do the Joint Petitioners have a position? I guess they
17 don't.

18 A. (Frantz) No.

19 Q. Okay.

20 A. (Frantz) And, the key issue here is that they get cost
21 recovery for any over-market costs, so --

22 Q. Well, here's where I'm coming from. I'd like to see
23 the record very clear that what we're doing here, if
24 it's going to be done, and Commissioner Ellsworth is

1 right, you know, these are of short-term duration. I
2 mean, these contracts, maybe they hopefully will roll
3 over in another form in the future. But I'd like to
4 follow up and say, do you think it would be wise for
5 the Commissioners, in their decision, to carefully
6 circumscribe and limit what's going on here, and saying
7 "this is no precedent, no prejudice. This is going to
8 be unwound when these contracts are over"? Do you
9 think that would be a -- would you suggest that or
10 recommend that to the Commissioners?

11 A. (Frantz) Well, I think that the testimony in the case
12 speaks for itself.

13 Q. Okay.

14 A. (Frantz) This Commission is very careful, and I'm sure
15 that these two Commissioners will carefully evaluate it
16 and be specific and address the issues that are before
17 them.

18 Q. So that, are we agreeing that the Commissioners then
19 probably would want to address that in their decision,
20 as to whether they're setting any precedent here, how
21 to limit this, how to circumscribe it, how to put it in
22 a box, and not let it be used next year to say "See,
23 the Commission thinks this is a good idea"?

24 MR. BERSAK: I'm going to object to that

1 testimony, Mr. Chairman. I don't think that the witness
2 or any of these witnesses are able to testify as to what
3 you Commissioners should consider.

4 CHAIRMAN GETZ: Yes. I think this
5 objection does call for speculation.

6 MR. RODIER: Okay.

7 CHAIRMAN GETZ: So, I'll --

8 MR. RODIER: Understood.

9 BY MR. RODIER:

10 Q. Let me see if I can just rephrase very quickly here.

11 An issue in this proceeding is whether or not this
12 maneuver, don't want to use a tainted word, should be
13 very specifically circumscribed. Would you just agree
14 with that, that that is an issue?

15 A. (Frantz) Well, I don't agree it's a "maneuver".

16 Q. Well, I used a bad word.

17 A. (Frantz) What's before the Commission is a ratemaking
18 treatment and a period of time, and I think it's pretty
19 clear that it could either be temporary or permanent.
20 And, in my opinion, I'd be very clear that it should be
21 temporary. I think Mr. Mullen's testimony is very
22 clear about the ratemaking treatment also. And, I'm
23 very confident that the Commission will address these
24 issues in their decision.

1 Q. Okay. That's good.

2 CMSR. ELLSWORTH: Mr. Rodier, may I
3 interfere for just a moment?

4 MR. RODIER: You certainly may, Mr.
5 Commissioner.

6 BY CMSR. ELLSWORTH:

7 Q. Let me ask you, in your understanding of the Settlement
8 Agreement, if the Commission says nothing about what
9 happens at the end of this prescribed period, will the
10 period end or will there be some continued or some
11 further Commission action or should we speak further to
12 the issue, in order to be sure that it closes at the
13 time that you --

14 A. (Frantz) I think you should address it.

15 Q. You think it should be addressed?

16 A. (Frantz) I do.

17 Q. But, if we opted not to address it, what will happen at
18 the end of the period?

19 A. (Frantz) Well, I think, at that point, absent some kind
20 of decision by the Commission to change rates, the
21 level that's been moved over would probably stay in
22 distribution rates.

23 Q. And, in a broader sense, what will happen to the
24 contracts?

1 A. (Frantz) The contracts will end on their expiration
2 dates.

3 Q. Okay. So, the only -- the issue then that the
4 Commission might want to address is the transfer of
5 funds, the transfer of dollars?

6 A. (Frantz) Correct.

7 CMSR. ELLSWORTH: Okay. Thank you.
8 Thank you, Mr. Rodier.

9 MR. RODIER: You're welcome.

10 BY MR. RODIER:

11 Q. Mr. Hall, PSNH's position, is it permanent or
12 temporary?

13 A. (Hall) I think it turns on how one defines the eight
14 and a half million dollars. It's an issue of whether
15 it's a liquidated amount that's being moved over or
16 whether it's specific costs that are being moved over.
17 I can't say what it is, because I wasn't at the
18 negotiating table. So, I don't know what the
19 negotiators had in mind.

20 Q. Okay. Well, I'm just asking what PSNH's position is,
21 should this be temporary, as Mr. Frantz says, or should
22 it be permanent? Can you give us an answer to that?

23 A. (Hall) I don't have a Company position. I have my own
24 opinion, but it's just that.

[WITNESS PANEL: Labrecque|Hall|Frantz]

1 MR. RODIER: All right. Well, I don't
2 -- yeah, I'm just wondering if -- what would be a good way
3 for us to get a Company position? Is there any way to do
4 that?

5 MR. BERSAK: Mr. Chairman, there was a
6 data request from Staff, Staff Set 2, Number 7, where the
7 question was "can you reconcile this difference of opinion
8 between the Advocacy Staff witnesses and the Company's
9 witnesses on whether the transfer and the ratemaking
10 methodology should be permanent or temporary?" Perhaps if
11 we were to mark that response to that question as the next
12 exhibit and enter that, that would explain, you know, to
13 the best ability of the Company as to why there is this
14 difference of opinion.

15 MR. RODIER: Could I just get a quick
16 summary of what it is, Mr. Chairman, so I can move on?

17 MR. BERSAK: I could read the response.
18 It goes on for about four paragraphs, but --

19 MR. RODIER: No, that's all right. I
20 don't want to -- look, that's fine with me. Let's mark
21 it. Give me -- or, I guess I got a copy of it someplace.
22 So, I will accept that, Mr. Chairman. So, if you can --

23 CHAIRMAN GETZ: Okay. Let's reserve
24 Exhibit Number 9 for the response to, is it a Staff --

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1 MR. BERSAK: Staff, Staff Set 2,
2 Question Number 7. And, the witness on that response was
3 Mr. Labrecque.

4 MS. ROSS: And, the Staff Advocate's
5 witness was Mr. Frantz.

6 CHAIRMAN GETZ: Okay.

7 **(Exhibit 9 reserved)**

8 MR. RODIER: Mr. Labrecque was the
9 responding witness to the data request?

10 MR. BERSAK: Yes, he was.

11 BY MR. RODIER:

12 Q. Mr. Labrecque, permanent or temporary, what's the PSNH
13 position?

14 A. (Labrecque) I'm not comfortable elaborating any further
15 other than the written data response.

16 Q. Okay. Mr. Frantz, you go back a pretty long time at
17 the PUC, don't you? Maybe vintage 1989 or 1990, as I
18 may recall?

19 A. (Frantz) Your memory is good.

20 Q. Back in those days, if you were talking about a rate
21 being based on avoided costs, you were talking about
22 Seabrook II. Do you remember those days?

23 A. (Frantz) I remember a lot of things about those days,
24 but I'm sure I've forgotten a lot.

1 Q. Do you remember people recommending to the Commission
2 that the avoided costs, the calculated avoided costs
3 would be Seabrook 2?

4 A. (Frantz) Actually, that proceeding, yes.

5 Q. Okay. What I was just going to get at here, which is,
6 if you're calculating avoiding costs, could you use the
7 Merrimack Station scrubber as the costs that's avoided?

8 A. (Frantz) My testimony doesn't address the avoided costs
9 here in this proceeding at all.

10 Q. Okay.

11 A. (Frantz) It talks about the background of the
12 negotiations and the policy principles that underlie
13 these PPAs.

14 Q. Okay. Let me then get into what is the framework here
15 for the Commission evaluating what's going on here.
16 I've heard the arguments on New Hampshire statutes, and
17 now I'm saying, in your view, should the Commission
18 value the -- use as a framework here what the PSNH's
19 legal obligations might be under federal law? Is that
20 relevant in your view?

21 A. (Frantz) I think the Commission has authority under the
22 statutes in New Hampshire to look at these PPAs and
23 make those decisions, and those are in the Joint
24 Petition.

[WITNESS PANEL: Labrecque|Hall|Frantz]

1 Q. Okay. So, let me then go to Mr. Labrecque.

2 MR. RODIER: This is my last area, Mr.
3 Chairman. And, I've got something, I probably don't want
4 to mark, but I'd like to hand it out. Okay? I'll explain
5 it a little bit. May I approach?

6 CHAIRMAN GETZ: Please.

7 (Atty. Rodier distributing documents.)

8 MR. RODIER: For the reporter here, and
9 give you two -- or one, and two up here. You didn't
10 respond, so you're not getting one.

11 WITNESS FRANTZ: Okay. I understand.

12 BY MR. RODIER:

13 Q. Let's see how far we can get on this and then make it
14 quick. The top part of this, it's right out of your
15 testimony, Mr. Labrecque.

16 MR. BERSAK: Mr. Chairman, I'm sure it
17 was inadvertent, but he's addressing the Company's
18 witnesses, and I'm sure that Mr. Rodier would have
19 intended to have given counsel a copy.

20 MR. RODIER: Oh, I'm sorry. That was
21 inadvertent. Here's an extra.

22 CHAIRMAN GETZ: I think he has one.

23 MR. RODIER: Okay.

24 CHAIRMAN GETZ: So, let's proceed.

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1 MR. RODIER: Okay.

2 BY MR. RODIER:

3 Q. Mr. Labrecque, the top part of the page, beginning with
4 "Q.", down to but not including "yes", would you -- is
5 that right out of your testimony?

6 A. (Labrecque) Yes.

7 Q. Okay. What did you intend here by, and you wrote your
8 own testimony, is that correct?

9 A. (Labrecque) Yes.

10 Q. Nobody wrote this for you?

11 A. (Witness Labrecque shaking head in the negative).

12 Q. Okay.

13 CHAIRMAN GETZ: Well, then, let's make
14 sure, though. Let me just get -- so, this looks to be the
15 beginning is at the top of Page 4 of Mr. Labrecque's
16 prefiled testimony?

17 MR. RODIER: I believe that is correct.

18 CHAIRMAN GETZ: All right.

19 **BY THE WITNESS:**

20 A. (Labrecque) Mr. Rodier, let me just amend my response,
21 that this was prepared under my supervision.

22 BY MR. RODIER:

23 Q. Who prepared it?

24 A. (Labrecque) I had some assistance from the Legal

1 Department.

2 Q. Oh. What's your intention by including this in your
3 testimony? And, let me be specific here: "Moreover,
4 the FERC regulations implementing PURPA expressly allow
5 "any electric utility or any qualifying facility to
6 agree to a rate for any purchase, or terms or
7 conditions relating to any purchase, which differs from
8 the rate or terms or conditions which would otherwise
9 be required by this subpart"." Why is this in your
10 testimony? What's it say?

11 A. (Labrecque) Well, I believe the "which would otherwise
12 be required" refers to portions of the PURPA regs that
13 speak to avoided costs. And, to the extent that these
14 PPAs are not described to be set equal to the PSNH's
15 avoided cost, this particular excerpt from PURPA was
16 included as part of the legal standard for approval of
17 the agreements.

18 Q. Okay. So, it's fair to say you're obligated to pay
19 avoided costs, but, if you wanted to pay more, like you
20 may be doing here, that's entirely permissible?

21 A. (Labrecque) That's my understanding.

22 Q. Okay. This is kind of why you have it in your
23 testimony, I guess, right, to make that point?

24 A. (Labrecque) Yes.

1 Q. Okay. It's permitted. So, now I want to ask you, what
2 would otherwise be required?

3 MR. BERSAK: Objection, Mr. Chairman.
4 What's required under PURPA isn't relevant to this
5 proceeding. What's required under PURPA is a question of
6 law, which the Company fully briefed in another docket,
7 09-067, a docket in which Attorney Rodier was involved, as
8 he represented the complainant in that docket.

9 CHAIRMAN GETZ: Well, let me understand
10 what the question is, when you say "what would be
11 otherwise required?"

12 MR. RODIER: Well, that's part of the
13 statute that Mr. Labrecque quoted, Mr. Chairman. Here's
14 what I'm trying to get at. He correctly -- he's got -- I
15 think his testimony was "this is in there for a reason."
16 He's saying -- I think he said they're "obligated to pay
17 avoided costs. But, if they wanted to pay more, they
18 can." That's what this says. I happen to agree with his
19 interpretation of it. So, I'm just trying to just clarify
20 briefly, what are they obligated to pay?

21 The reason it's relevant, Mr. Chairman,
22 is you have to understand if that's the statutory
23 authority, if you're going to approve this, you have to
24 understand what is PSNH obligated to do versus what it may

1 do. If they're obligated to do something, it's going to
2 have a big effect on maybe how you evaluate some of the
3 outcomes here. That's all I'm trying to get at.

4 In addition, and let me just continue on
5 here, that the lower part of this page is out of Mr.
6 Hall's testimony. And, this goes into even greater detail
7 about their obligations. It refers to Docket 09-067
8 stating what their position was, talks about the Least
9 Cost Plan and what their position is in buying power back
10 from these people.

11 All I'm trying to do here is to say, you
12 know, I mean, to me it's kind of like a dog whistle, you
13 know? There's only certain people in the room that can
14 hear this, what's going on and understand it. I don't
15 understand what really their obligations are under PURPA.
16 And, Mr. Bersak says they were briefed or discussed in
17 another proceeding. Obviously, there were substantial
18 points of view and there were substantial differences of
19 opinion at FERC between what the Company said here and
20 what the Company said at FERC.

21 So, all I would like to do is to once
22 and for all get this clarified and as to what PSNH's
23 obligations are. It's that simple.

24 CHAIRMAN GETZ: What their obligations

1 are under PURPA?

2 MR. RODIER: Yes. This is not about
3 federal law; it's PURPA period.

4 CHAIRMAN GETZ: But that's not the
5 subject matter of this proceeding. The subject matter of
6 this proceeding is whether these purchase power agreements
7 are in the public interest under state law.

8 MR. RODIER: Well, then, I'm following
9 up on his testimony. And, they have it in here for a
10 reason. Now, if the Commission, in its wisdom, is saying
11 "we're not even going to, contrary to what the Company is
12 urging on us, we're not even going to get into what the
13 applicable federal law is", then, you know, I'm at a
14 dead-end here and I would concur, if that's your ruling.

15 CHAIRMAN GETZ: Well, let me say this.
16 To the extent you have a position, it sounds like we're
17 more into argument, rather than into cross-examination. I
18 think he's answered your questions about what he intended
19 by this answer and what this answer meant. So, I'm not
20 sure what -- where you would go from there.

21 But, if you have something to ask about
22 what Mr. Hall said, then please proceed with that. And,
23 if you need to make a closing statement about what we
24 should or shouldn't do or what we should take from these

1 testimonies, then you'll have that opportunity.

2 MR. RODIER: Okay. Thank you for that
3 guidance, Mr. Chairman.

4 BY MR. RODIER:

5 Q. Mr. Hall, what did you intend by including the
6 language, and, by the way, could you just tell us what
7 page the excerpt from your testimony appears on in your
8 exhibit, I think it's 4? And, by the way, even before
9 that, is the excerpt here that begins with "yes", and
10 continues over to the top of the next page, is that out
11 of your testimony?

12 A. (Hall) I haven't looked it over word-for-word, but I'll
13 accept that it is.

14 Q. Okay. It kind of strikes you in that way?

15 A. (Hall) Yes.

16 Q. What did you intend by putting this in your testimony?

17 A. (Hall) The purpose of this Q&A was to demonstrate that
18 the PPAs are in conformance with PSNH's Least Cost
19 Plan.

20 Q. Before we get to that, though, one excerpt here is
21 "PSNH further clarified its obligations under PURPA
22 more recently."

23 A. (Hall) Uh-huh.

24 Q. Were you just parroting that because somebody in the

[WITNESS PANEL: Labrecque|Hall|Frantz]

1 Legal Department dropped that into your testimony or do
2 you not have -- do you know what those obligations are?

3 A. (Hall) Generally, yes. But I don't know specifically,
4 and I'd rely on counsel. The only purpose of that
5 statement is to give background information.

6 Q. Okay.

7 A. (Hall) That's not --

8 Q. So, if I asked you whether the obligation was long
9 term, as well as short term --

10 A. (Hall) I'd leave that to counsel.

11 MR. RODIER: Okay. Mr. Chairman, that's
12 really all that I have. And, with the leave of the
13 Commission -- well, are we going to be putting in closing
14 statements? Did we -- might I just ask?

15 CHAIRMAN GETZ: There will be, as we
16 provide an opportunity at the end of every single hearing
17 we have, there will be an opportunity for closing
18 statements. Are you -- well, are you suggesting something
19 else?

20 MR. RODIER: No. I'm not. No. I guess
21 I just will then conclude this. And, I appreciate the
22 Commission's tolerance here.

23 CMSR. ELLSWORTH: Mr. Rodier, may I ask,
24 did you author this document that you passed out to us, to

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1 the extent that you copied it from others' testimony?

2 MR. RODIER: Yes. This is just a
3 cut-and-paste, Commissioner. This is a cut-and-paste.
4 And, I actually didn't want to wear out my welcome here.
5 The third part of this is from they say "well, we get into
6 our obligations in the Least Cost Plan." And, that's what
7 the remainder of Page 2 is. But, under the circumstances,
8 I didn't want to say "well, what are you trying to tell us
9 is in your Least Cost Plan?" We're not going to get a
10 response. So, I guess I would take, you know,
11 Commissioner Getz is saying "it's probably a legal issue",
12 and we'll get into -- I could get into that in my closing,
13 in my written.

14 CMSR. ELLSWORTH: I'm only interested in
15 clarifying that the words that you have -- that have been
16 typed on this page were typed by you or someone in your
17 office, and were intended to replicate --

18 MR. RODIER: Yes.

19 CMSR. ELLSWORTH: -- words that were in
20 the testimonies of Mr. Labrecque and Mr. Hall, is that
21 right?

22 MR. RODIER: Well, more than that. You
23 go to these things on the Commission's website, you can
24 just -- you just copy them right out --

1 CMSR. ELLSWORTH: Right.

2 MR. RODIER: -- and drop it right out.
3 So, it's more than typed. This is right out of what's in
4 the public record.

5 CMSR. ELLSWORTH: Well, I'll take it as
6 a "yes" that --

7 MR. RODIER: Yes.

8 CMSR. ELLSWORTH: -- it's a replication
9 of --

10 MR. RODIER: It is.

11 CMSR. ELLSWORTH: Okay.

12 MR. BERSAK: Not exactly, Commissioner
13 Ellsworth. If you go to the last page of what Mr. Rodier
14 handed out, where it starts with the word "PURPA", that
15 does not come from the testimony of either Mr. Hall or
16 Mr. Labrecque. As I understand what Attorney Rodier said,
17 that that comes from PSNH's Least Cost Plan. Is that
18 correct, Mr. Rodier?

19 MR. RODIER: That's correct.

20 CMSR. ELLSWORTH: And, that's beginning
21 -- that's the second paragraph on Page 2?

22 MR. BERSAK: The one beginning "PURPA
23 requires".

24 CMSR. ELLSWORTH: Yes.

1 MR. RODIER: Yes, that's out of the --
2 Mr. Hall referred to the "2007 Least Cost Plan". And, so,
3 I said "okay, let's see what it says in the 2007 Least
4 Cost Plan", and here it is. And, that's an exact replica.

5 CHAIRMAN GETZ: Well, let's just address
6 this issue. I mean, since this was proposed as excerpts
7 of, well, at least two other pieces of testimony from this
8 docket, and something from another docket, I took what you
9 were doing with this was to, for the ease of
10 cross-examination, and it would not be introduced as an
11 exhibit, is that correct?

12 MR. RODIER: Exactly. Exactly. That's
13 exactly right.

14 CHAIRMAN GETZ: Okay. Anything further,
15 Mr. Rodier, or --

16 MR. RODIER: I've said why I think the
17 Commission should evaluate this under federal law. And,
18 in order to do that, it should understand what the federal
19 law is. And, having said that, I'm all done. And, I
20 appreciate the opportunity to ask questions.

21 CHAIRMAN GETZ: Okay. Thank you. Then,
22 Mr. Shulock.

23 MR. SHULOCK: Thank you. Mr.
24 Commissioner, we have two exhibits we'd like to mark for

1 this series of questions. The first is an excerpt from
2 the Settlement Agreement, specifically the "mutual
3 release" language that the Joint Petition asked the
4 Commission to approve. I believe, in the numbering
5 system, that would be number "10". The second of the two
6 exhibits is a Settlement Agreement from Docket DE 07-122.
7 And, my understanding, that would be "11".

8 CHAIRMAN GETZ: Yes, just one moment,
9 Ms. Hatfield. I want to see these documents before, so I
10 understand what we're talking about.

11 (Atty. Wiesner distributing documents.)

12 CHAIRMAN GETZ: Mr. Wiesner, was there
13 another?

14 MR. WIESNER: Yes, I'm sorry.

15 CHAIRMAN GETZ: Okay. Ms. Hatfield.

16 MS. HATFIELD: Just to the extent it's
17 helpful, and it may not be right now, but the OCA has
18 copies of Exhibit 9. So, for the Clerk's purposes, I can
19 hold them until my cross or we can do it now?

20 CHAIRMAN GETZ: Please.

21 (Atty. Hatfield distributing documents.)

22 CHAIRMAN GETZ: And, Exhibits 10 and 11
23 will be marked for identification as described by
24 Mr. Shulock.

1 (The documents, as described, were
2 herewith marked as **Exhibit 10** and
3 **Exhibit 11**, respectively, for
4 identification.)

5 BY MR. SHULOCK:

6 Q. So, Mr. Labrecque, PSNH has sought approval of the
7 mutual release provisions in the Settlement Agreement
8 that's been marked as Exhibit 10, Paragraph 3, look at
9 that. But the Joint Petition and PSNH have not
10 specified any of the claims that it's actually
11 releasing. But how can the Commission make an informed
12 decision on whether to approve that provision, if none
13 of the claims are specified?

14 A. (Labrecque) I believe Section 3 represents that we
15 perform some amount of due diligence regarding a search
16 for any known claims.

17 Q. So, before you entered into the agreement to release
18 known claims, you determined that there were none that
19 you knew of?

20 A. (Labrecque) Correct.

21 Q. And, you investigated that before making that
22 determination?

23 A. (Labrecque) And, I believe there's a discovery response
24 that states something similar to that.

1 Q. Mr. Frantz, if you would be kind enough to look at
2 Exhibit 11. And, I direct your attention to Paragraph
3 4. If you look at that language, is it similar to the
4 release in the Settlement Agreement in this case, in
5 that it releases known and unknown claims?

6 A. (Frantz) Yes.

7 Q. And, to your knowledge, did the Commission approve that
8 Settlement Agreement?

9 A. (Frantz) Yes.

10 Q. And, was Staff involved in that docket?

11 A. (Frantz) Yes.

12 Q. Do you know who the Staff members were who were
13 assigned and participated in that docket?

14 A. (Frantz) I think the lead person for the Staff was Mr.
15 Mullen.

16 Q. Thank you.

17 MR. SHULOCK: Mr. Commissioner, we would
18 like -- or, I'm sorry, Mr. Chair, we would like to mark
19 Staff 1-10 as an exhibit.

20 (Atty. Wiesner distributing documents.)

21 BY MR. SHULOCK:

22 Q. Now, Mr. Frantz, in this data response, as I understand
23 it, you "explain how the overall settlement of the
24 issues involving PSNH and the Berlin Biomass

1 facility...supports the justness and reasonableness of
2 the energy price of the PPAs." Can you elaborate on
3 that?

4 A. (Frantz) Well, this was a very complex negotiation,
5 that involved a lot of parties, each with its own
6 specific interests. And, it's safe to say that, as I
7 stated in my testimony, that the IPPs certainly would
8 have preferred certain outcomes, and those differed
9 somewhat from PSNH's. That the IPPs, in general,
10 wanted higher rates and longer terms, and PSNH no doubt
11 shorter PPA rates and shorter terms.

12 That said, the ratemaking involved here
13 is a balancing act. And, that's essentially what this
14 data response gets to. That just and reasonable rates
15 for energy prices is not just one specific number at
16 one specific time. And, in fact, it involves judgment,
17 which is why we have Commissioners to make that
18 judgment. And, we have statutes that look at not just
19 the lowest cost period, but that there are other
20 interests to look at. And, those interests were, I
21 think, stated rather well in Mr. Bald's testimony.

22 CHAIRMAN GETZ: Well, let's just mark
23 that data response, Staff Advocate 1-10, as "Exhibit
24 Number 12".

[WITNESS PANEL: Labrecque|Hall|Frantz]

1 (The document, as described, was
2 herewith marked as **Exhibit 12** for
3 identification.)

4 MR. SHULOCK: For this series of
5 questions, we'd like to mark two other data responses; one
6 is Wood IPP 1-6 and the second is Wood IPP 1-4.

7 (Atty. Wiesner distributing documents.)

8 CHAIRMAN GETZ: Okay. They will be
9 marked respectively as "Exhibits 13" and "14" for
10 identification.

11 (The documents, as described, were
12 herewith marked as **Exhibit 13** and
13 **Exhibit 14**, respectively, for
14 identification.)

15 MS. HATFIELD: Mr. Chairman, can you
16 just specify which is which?

17 CHAIRMAN GETZ: And, I believe he
18 started with 1-6 as "Exhibit 13" and 1-4 as "Exhibit 14".

19 MS. HATFIELD: Thank you.

20 CHAIRMAN GETZ: In reverse numerical
21 order.

22 BY MR. SHULOCK:

23 Q. Okay. Mr. Frantz, these questions touch on some of the
24 same issues that Mr. Rodier raised with regard to

{DE 11-184} [Redacted - for public use] {11-30-11/Day 1}

1 Docket 10-160, but from a slightly different angle.

2 The ratemaking methodology that is proposed in the
3 Joint Petition requires customers that have migrated to
4 competitive supply to pay part of the costs of the
5 costs that are reallocated from energy service over to
6 distribution. Is that -- is this fair to those
7 customers?

8 A. (Frantz) Well, this is -- the reason we're here is
9 there are perceived public benefits that we think that
10 the jobs and the effects of these Wood IPPs and the
11 negotiations that we conducted had great and broad
12 effects for the State of New Hampshire as a whole. To
13 that extent, I don't think it's unfair that others pay
14 some of those costs.

15 Q. Again, with regard to Docket 10-160, --

16 A. (Frantz) And, I think that these are A&G costs. And,
17 as I've said before, that they were in distribution
18 rates. So, they're common costs, in my opinion.
19 There's not a direct dollar-for-dollar view of these
20 costs associated with one megawatt-hour of output. So,
21 it's always a difficult judgment call in allocating
22 common costs. It's not like fuel, it's not like a
23 barrel of oil, it's not like a ton of coal, which are
24 directly related to the actual output of a plant. And,

1 it's not even like a meter. So, these are A&G costs.

2 Q. So, are there any laws that direct the Commission to
3 allocate costs using any particular method, such as
4 revenues?

5 A. (Frantz) I'm not sure there are any laws. There's
6 certainly a great body of work on cost allocation and
7 books that have been written about designing rates and
8 allocating costs. But, as far as statutorily
9 prohibited? Obviously not, because the rates [costs?]
10 used to be in the distribution rates.

11 Q. Okay. Would you look at Exhibit 13. And, if you'd
12 read the first sentence in the response after the
13 objection. Could you tell us whether there's any
14 really fundamental disagreement between Advocate and
15 Non-Advocate Staff over whether there is a law that
16 mandates allocation methods?

17 A. (Frantz) And, this is from Mr. Mullen. And, he states
18 that "there's no statutory mandate that prescribes the
19 allocation method and ratios."

20 Q. And, is allocating on the basis of revenues a perfect
21 method for allocating?

22 A. (Frantz) There is no perfect method for allocating
23 common costs.

24 Q. And, I'd like you to look at what's been marked as

1 "Exhibit 14". Which attaches some testimony that Mr.
2 Mullen gave in a previous case. And, tell me whether,
3 based on that testimony, you believe that there's any
4 fundamental disagreement between Advocate and
5 Non-Advocate Staff over whether allocating on the basis
6 of revenues is a perfect allocation method?

7 A. (Frantz) I've read it. Could you repeat your question
8 please.

9 Q. You've previously stated that "there is no perfect
10 method for allocating costs, and that allocating on the
11 basis of revenues, therefore, is not a perfect method
12 of allocation." Is there any fundamental disagreement
13 between you and Non-Advocate Staff whether allocating
14 on the basis of revenues is a perfect method for doing
15 that allocation?

16 A. (Frantz) I don't believe so.

17 Q. Okay. Are you familiar, Mr. Frantz, with RSA 374-F:3,
18 VI, and that provision is a discussion of the
19 regulatory assessment?

20 A. (Frantz) Did you say 374-F:3, VI?

21 Q. Yes.

22 A. (Frantz) Which is "Benefits for All Consumers"?

23 Q. That's correct.

24 A. (Frantz) In a general sense, yes.

1 Q. Would that provision allow the collection of regulatory
2 assessments completely through the distribution charge
3 under certain circumstances?

4 A. (Frantz) Well, it states a lot of things. Including
5 "in the manner that benefits all consumers equitably
6 and does not benefit one customer class to the
7 detriment of another." "Such benefits, as approved by
8 regulators, may include", and it goes on to state what
9 those are, for what programs, including "energy
10 efficiency", "low-income" --

11 (Court reporter interruption.)

12 **CONTINUED BY THE WITNESS:**

13 A. (Frantz) It goes on to state that "Such benefits, as
14 approved by regulators, may include, but [is] not
15 necessarily limited to [certain things such as] energy
16 efficiency, low-income customers, funding for the
17 electric utility industry's share of commission
18 expenses." So, I think, in general, yes.

19 BY MR. SHULOCK:

20 Q. Do you think it's fair, Mr. Frantz, to require
21 distribution only customers to pay any portion of
22 uncollectible debt expenses that have been allocated to
23 the energy service rate component?

24 A. (Frantz) Well, I think, for the purposes of what we're

1 here for and what these proposals are, and the benefits
2 that I believe accrue to numerous parties in this
3 state, I think the ratemaking treatment is appropriate
4 for the PPAs that are before the Commission. They're
5 short-term. I think there are demonstrated benefits.
6 I think the ratemaking treatment, as I said, is
7 appropriate in this regard.

8 Q. And, again, we were talking under a "general framework"
9 of concerns that might arise under the Commission's
10 order in Docket 10-160. But I'll ask you a fundamental
11 question. Is it your opinion that the ratemaking
12 proposal in the Joint Petition is consistent with the
13 Commission's holdings in that docket?

14 A. (Frantz) Yes. I believe I addressed that question
15 under cross from Mr. Rodier.

16 MR. SHULOCK: That's all I have.

17 CHAIRMAN GETZ: Okay. Thank you. Well,
18 it's five of twelve, which could be a reasonable time for
19 the lunch recess. But, Ms. Hatfield, do have a preference
20 about starting your cross now or waiting until after the
21 lunch recess?

22 MS. HATFIELD: I think it would be fine
23 to wait. Thank you.

24 CHAIRMAN GETZ: Okay. Then, let's --

1 MR. SHULOCK: Actually, I'm sorry, I
2 neglected to ask a question.

3 CHAIRMAN GETZ: Okay. Well, let's go
4 back to Mr. Shulock.

5 MR. SHULOCK: And, for this, we'd like
6 to introduce an exhibit. This is an excerpt of the
7 Settlement Agreement in Docket 09-035.

8 (Atty. Wiesner distributing documents.)

9 CHAIRMAN GETZ: We'll mark this for
10 identification as "Exhibit Number 15".

11 (The document, as described, was
12 herewith marked as **Exhibit 15** for
13 identification.)

14 BY MR. SHULOCK:

15 Q. Mr. Frantz, do you have that in front of you? That's
16 the "Exogenous Events" section of the Settlement
17 Agreement?

18 A. (Frantz) Section 12?

19 Q. Yes.

20 A. (Frantz) I do.

21 Q. And, I direct your attention to Section 12.2.3. And,
22 I'd ask you the following question: In your opinion,
23 would reallocation of costs from the energy service
24 rate to the distribution rate modify the Settlement

1 Agreement between PSNH and the Staff in Docket 09-035?

2 A. (Frantz) Give me a second to read it please.

3 Q. Okay.

4 A. (Frantz) 12.2.3, which is "Regulatory Cost
5 Reassignment", appears to allow for some transfer of
6 costs among the different classes of functions,
7 generation, transmission, and distribution.

8 Q. And, so, that would have been contemplated by the
9 Settlement Agreement itself, is that correct?

10 A. (Frantz) I think each of the parties would have to
11 state whether that was contemplated by the parties
12 themselves. The language, I think, clearly allows it.

13 MR. SHULOCK: That's all. Thank you.

14 CHAIRMAN GETZ: Okay. Is there anything
15 then, before we take the lunch recess?

16 (No verbal response)

17 CHAIRMAN GETZ: Hearing none, then we'll
18 recess and resume at 1:15.

19 (Whereupon the lunch recess was taken at
20 12:00 p.m. and the hearing resumed at
21 1:24 p.m.)

22 CHAIRMAN GETZ: Okay. We're back on the
23 record in DE 11-184. Is there anything we need to address
24 before turning to Ms. Hatfield's cross?

[WITNESS PANEL: Labrecque|Hall|Frantz]

1 (No verbal response)

2 CHAIRMAN GETZ: Hearing nothing, then,
3 Ms. Hatfield.

4 MS. HATFIELD: Thank you, Mr. Chairman.
5 I'm going to begin by distributing an exhibit. And, I'm
6 not sure which number we're up to at this point.

7 (Atty. Hatfield distributing documents.)

8 MS. HATFIELD: I think it's number 16,
9 is that correct?

10 CHAIRMAN GETZ: Yes.

11 (The document, as described, was
12 herewith marked as **Exhibit 16** for
13 identification.)

14 MS. HATFIELD: Thank you. Good
15 afternoon, gentlemen.

16 WITNESS FRANTZ: Good afternoon.

17 WITNESS LABRECQUE: Good afternoon.

18 WITNESS HALL: Good afternoon.

19 BY MS. HATFIELD:

20 Q. And, Mr. Labrecque, what's been marked as "Exhibit 16",
21 is this your response to Staff 1-12, Supplement Number
22 1?

23 A. (Labrecque) Yes.

24 Q. And, is it correct that this supplemental response was

{DE 11-184} [Redacted - for public use] {11-30-11/Day 1}

1 provided to the parties yesterday?

2 A. (Labrecque) Yes.

3 Q. And, you state in the response that you provided this I
4 think for two reasons; one, because some confidential
5 information had been made public, is that right?

6 A. (Labrecque) Correct.

7 Q. And, then, also because you provided updated market
8 information on Page 3, is that right?

9 A. (Labrecque) Correct.

10 Q. And, if you would please turn to Page 3.

11 A. (Labrecque) I got it.

12 Q. The over-market price, in the bottom right box, which
13 is roughly \$25.2 million, is that the estimated total
14 over-market amount for the PPAs?

15 A. (Labrecque) Well, that is the portion related to the
16 energy payment. Any fuel adjustment impact we would
17 include as well.

18 Q. And, if we look at the top box in the right column,
19 which is the 22.2 million, that says "Over-Market
20 Energy", is that right?

21 A. (Labrecque) Correct.

22 Q. And, in the next box is "Impact of Fuel Adjustment",
23 and that's 2.9 million?

24 A. (Labrecque) Correct.

1 Q. And, so, when we add it together, is that the total
2 over-market estimate?

3 A. (Labrecque) Yes.

4 Q. And, this is an estimate because we don't actually know
5 what the over-market amount would be at this time?

6 A. (Labrecque) Correct.

7 Q. The Commission, in its order last week, also made the
8 length of the terms of the PPAs public, is that right?

9 A. (Labrecque) Correct.

10 Q. And, so, if we look up above, where it says "Number of
11 Months", those are the terms of each PPA?

12 A. (Labrecque) Yes. That's the -- assuming a January 1
13 effective date, and given the term lengths as described
14 in each of the five PPAs, that's the number of months.
15 And, beneath that, where it says "Quantity", that's
16 essentially a -- it's either the quantity cap for the
17 two deals that are listed as "21 months", or it's a
18 reduced quantity, representing approximately 17/21sts
19 of the quantity cap.

20 Q. And, when you say "assuming approval by January 1st",
21 you mean "January 1st, 2012"?

22 A. (Labrecque) Yes.

23 Q. And, the PPA price is now also public, correct?

24 A. (Labrecque) Correct.

1 Q. And, that's shown in boxes showing "\$69.00" per
2 megawatt-hour, is that right?

3 A. (Labrecque) Yes.

4 Q. And, what would that equate to in a kilowatt-hour?

5 A. (Labrecque) 6.9 cents per kilowatt-hour.

6 Q. Thank you. Without disclosing what is still
7 confidential, which is the Initial Wood Price, could
8 you just briefly describe how the Initial Wood Price
9 factors into the overall cost of the energy from the
10 IPPs under the PPAs?

11 A. (Labrecque) As it relates to this exhibit?

12 Q. Or just generally.

13 A. (Labrecque) All right. To the extent actual wood costs
14 exceed the Initial Wood Price of each PPA, and, in this
15 particular exhibit, I assumed just for kind of
16 illustrative purposes a \$2.00 per ton increase above
17 the Initial Wood Price. There's -- each PPA has in it
18 a fuel adjustment mechanism. They're all slightly
19 different, but it's essentially a way to convert a
20 dollar per ton impact into a dollar per megawatt-hour
21 impact. And, that dollar per megawatt-hour impact, in
22 a month in which actual delivered wood price exceeded
23 the Initial Wood Price, it would be essentially an
24 adder to the \$69 energy price, although it would be

1 paid quarterly, instead of monthly.

2 Q. When will PSNH determine if the prices under the PPAs
3 were over market?

4 A. (Labrecque) Well, we'll certainly be tracking it
5 monthly. So, I guess that's the answer. We'll track
6 it monthly.

7 Q. Are any of the PPA costs included in PSNH's proposed
8 energy service rate for 2012?

9 A. (Labrecque) To the best of my knowledge, no, they are
10 not.

11 Q. So, is it true then that the first time that these
12 costs could be included in the energy service rate
13 would be on July 1 of 2012? And, Mr. Hall is shaking
14 his head, so perhaps he can add.

15 A. (Hall) To the extent that costs above market are
16 deferred for future recovery, it doesn't matter whether
17 these were -- are reflected in the energy service rate
18 or not starting in 2012, because it's the market price
19 that would be recovered through the energy service
20 rate.

21 Q. And, Mr. Labrecque, when you said you'd be "tracking
22 it", and did you say "monthly"?

23 A. (Labrecque) Yep.

24 Q. So, each month you would compare the actual IPP costs

1 against what PSNH could have purchased electricity in
2 the market for?

3 A. (Labrecque) Correct.

4 Q. And, PSNH proposes to shift eight and a half million
5 dollars per year in over-market costs to the
6 distribution rate, is that right?

7 A. (Labrecque) Correct.

8 Q. Although, Mr. Hall, you did discuss some other
9 possibilities in your rebuttal, is that right?

10 A. (Hall) Yes.

11 Q. When will be the actual over-market amount that would
12 be put in another charge, when will that be known?
13 And, let me continue. For example, if the Commission
14 approves a separate charge just for the over-market
15 portion of these PPAs, would the Company use an
16 estimate to begin collecting that amount, and then
17 reconcile it later, or how would that work?

18 A. (Hall) Every month we'll be able to calculate the
19 over-market amount. And, therefore, that over-market
20 amount gets, in effect, set aside. And, at a future
21 point, if there's additional room created through the
22 energy service rate, either as a result of a changing
23 market price or termination of one or more of the
24 agreements, that over-market amount begins to get

[WITNESS PANEL: Labrecque|Hall|Frantz]

1 recovered through the energy service rate. So, I'm not
2 sure I answered your specific question, and I'm not
3 sure I quite followed it.

4 (Witness Labrecque and Witness Hall
5 conferring.)

6 WITNESS HALL: Sorry.

7 BY MS. HATFIELD:

8 Q. Mr. Hall, did you just say that it's possible that some
9 of the over-market amounts could be recovered through
10 the energy service rate?

11 A. (Hall) Recovered, to the extent that there's any room
12 created as a result of the removal of the eight and a
13 half million dollars.

14 Q. The eight and a half million dollars has been referred
15 to I think as a "liquidated amount" for purposes of
16 settlement, is that right?

17 A. (Frantz) Correct.

18 MS. HATFIELD: And, I have another
19 exhibit, which would be number "17".

20 (Atty. Hatfield distributing documents.)
21 (The document, as described, was
22 herewith marked as **Exhibit 17** for
23 identification.)

24 BY MS. HATFIELD:

{DE 11-184} [Redacted - for public use] {11-30-11/Day 1}

1 Q. Mr. Hall, do you have Exhibit 17 in front of you now?

2 A. (Hall) Sure.

3 Q. And, do you see that this is a data response from the
4 Company in Docket DE 11-215?

5 A. (Hall) Yes.

6 Q. And, is that the Company's 2012 energy service rate?

7 A. (Hall) Yes, it is.

8 Q. And, the witness was actually Mr. Baumann, is that
9 correct?

10 A. (Hall) Yep.

11 Q. But are you active in that docket?

12 A. (Hall) I am.

13 Q. Do you see that in this question, which is 1-8 from the
14 OCA, the Company asked for the amount included in the
15 2012 energy service rate for both uncollectibles and
16 regulatory expense?

17 A. (Hall) Yes.

18 Q. And, can you just read what those expenses are for each
19 item?

20 A. (Hall) Sure. For uncollectible expense, it's
21 approximately 3.7 million, and, for regulatory, it's
22 approximately 2.4 million.

23 Q. And, can you give me a rough estimate of what the total
24 of those two numbers would be?

1 A. (Hall) Sure. It's about 6.1 million.

2 Q. And, that's less than 8.5, is it not?

3 A. (Hall) It is.

4 Q. Mr. Labrecque, turning to your testimony. I believe,
5 on Page 10, you refer to PSNH proposing to defer
6 amounts over eight and a half million each year, is
7 that right?

8 A. (Labrecque) I'm looking for the page. You said "Page
9 10"?

10 Q. I'm sorry. It's actually Page 10 of the Company's
11 original filing.

12 CMSR. ELLSWORTH: I think it's Page 5 of
13 his testimony.

14 MS. HATFIELD: Thank you very much.
15 Since your testimony doesn't go to Page 10, it can't be
16 Page 10.

17 BY MS. HATFIELD:

18 Q. So, on Page 5 of your testimony, at Line 10?

19 A. (Labrecque) Got it.

20 Q. You state "Any deferral created under this mechanism
21 would accrue interest at the Company's weighted cost of
22 capital for its generation segment." Do you see that?

23 A. (Labrecque) Yes.

24 Q. And, do you know what the Company's weighted cost of

1 capital is for its generation segment?

2 A. (Hall) It's approximately 11.05 percent currently. It
3 changes quarterly.

4 Q. So, in addition to paying over-market costs under the
5 PPAs, ratepayers may also be paying interest on
6 deferred over-market amounts?

7 A. (Hall) Not interest, carrying charges, at the Company's
8 cost of capital.

9 Q. Do you know how much that might total for ratepayers?

10 A. (Hall) It would depend on the amount that's been
11 deferred, and length of time that it's deferred. It
12 would depend on recovery of costs and amortization of
13 those costs over time.

14 Q. So, you don't know how much it might be at this point?

15 A. (Hall) Well, I don't have enough information to
16 calculate an amount. I need -- we'd need to specify
17 what the parameters are in order to do that
18 calculation.

19 Q. And, because ratepayers would be paying those carrying
20 charges, PSNH would not have to pay any costs related
21 to these PPAs, is that right?

22 A. (Hall) Have to pay any costs related to?

23 Q. To the PPAs, PSNH shareholders.

24 A. (Hall) If customers are paying for carrying costs,

1 shareholders are made whole for the use of the funds
2 that they expend on these arrangements.

3 Q. And, I think I heard you testify, and it's in the
4 written testimony as well, that "PSNH shareholders also
5 don't benefit from these transactions", is that right?

6 A. (Hall) Correct.

7 Q. Mr. Frantz, in your testimony, you state that "the PPAs
8 are expected to be above-market over the term of their
9 contracts", is that right?

10 A. (Frantz) Yes.

11 Q. And, earlier in your testimony today I think you
12 referred to the "balancing" that the Commission must
13 undertake, do you recall that?

14 A. (Frantz) Yes.

15 Q. Do you agree that the Commission is charged with
16 balancing the interests of ratepayers and shareholders?

17 A. (Frantz) Yes.

18 Q. And, in what's been marked as "Exhibit 12" earlier
19 today, which is your response to Staff Request 1-10,
20 you also discuss that, is that right?

21 A. (Frantz) Correct. Yes.

22 Q. And, in the second paragraph of your response to
23 Exhibit 12, you state "Moreover, the Commission has a
24 duty to balance consumer and investor interests", is

1 that right?

2 A. (Frantz) Yes.

3 Q. When you referred to "investor interests", and when I
4 use the word "shareholder interests", what investors or
5 shareholders does the Commission have to balance?

6 A. (Frantz) Well, the only shareholder for PSNH is the
7 parent company, Northeast Utilities. Of course,
8 Northeast Utilities has numerous shareholders.

9 Q. Did you just hear Mr. Hall say that "PSNH or NU
10 shareholders don't benefit in this transaction"?

11 A. (Frantz) I did.

12 Q. Does the Commission have a duty to balance the
13 interests of the owners of the IPPs?

14 A. (Frantz) Well, I think in a general policy perspective.
15 Not, *per se*, as part of its direct regulatory
16 responsibilities.

17 Q. Can you expand on that? What do you mean "from a
18 general policy perspective"?

19 A. (Frantz) Well, to the extent that those interests of
20 the owners of the IPPs are affecting, in some way,
21 public policy objectives or principles or goals, then I
22 think they come into play. But regulatory commissions,
23 such as this one, were designed to balance the
24 interests of regulated utilities and their customers.

1 Q. You reviewed some documents at the law offices of the
2 firm that represents the IPPs, is that right?

3 A. (Frantz) Yes.

4 Q. Did any of those documents give you any information
5 about the benefits to the investors of the IPPs in this
6 transaction?

7 A. (Frantz) Are you talking about the wood prices that we
8 looked at or could you be more specific?

9 Q. Sure. In that review, you did look at wood prices,
10 correct?

11 A. (Frantz) Correct.

12 Q. Did you look at other information related to the owners
13 of the IPPs and how they might benefit from these PPAs?

14 A. (Frantz) At that meeting, which Mr. Eckberg and Mr.
15 Mullen joined me on, we looked at wood prices, lots of
16 wood prices.

17 Q. In developing the pricing under the PPAs, did you take
18 into consideration the benefits to the owners of the
19 IPPs?

20 A. (Frantz) Well, as part of the negotiation, Ms. Ross and
21 I took into consideration a number of things. And,
22 certainly, one of them was the operations of the IPPs.
23 There was much stated that they would close absent some
24 kind of purchase power agreement. That had been in the

1 news, it had been stated. And, we had reviewed, at
2 least for a couple of the companies, their books. And,
3 based on our review, no one would characterize that
4 they were, under these market conditions and these
5 prices, making a lot of money. In fact, they were
6 losing money in today's market.

7 Q. Now, these PPAs are for energy only, is that right?

8 A. (Frantz) Yes.

9 Q. So, PSNH is not purchasing capacity, right?

10 A. (Frantz) No. Nor are they purchasing RECs.

11 Q. So, would capacity and RECs be other sources of revenue
12 for the IPPs?

13 A. (Frantz) Yes.

14 Q. And, were those sources factored into the pricing under
15 the PPAs?

16 A. (Frantz) Generally, yes. There's a reason that we did
17 not include REC and capacity prices. And, I think my
18 testimony mentions it, but I'll be happy to mention it
19 here, too. Is that now you add two more variables, for
20 a number of plants, for a number of months, that makes
21 a negotiation more difficult. And, I was also looking
22 at the end result, and then presenting it before the
23 Commission. And, that means more forecasts, more
24 uncertainty, and perhaps a longer time frame to get

1 these approved, which was certainly an objective.

2 Q. Is it true that one disadvantage of excluding RECs is
3 that the transactions aren't reviewed under the RPS
4 statute?

5 A. (Frantz) Yes. But it also puts some of the obligation
6 and burden on the facilities themselves to go out and
7 market their power, and takes the risk off of PSNH that
8 they thought they're obligated in getting RECs, when,
9 in fact, they may not. And, really, they didn't need
10 these RECs for their RPS obligations. It was
11 considered carefully. And, in the end, decided not to
12 go that way.

13 It was hard enough to decide what the
14 energy prices were, yet alone what the future REC
15 prices were.

16 BY MS. HATFIELD:

17 Q. And, Mr. Labrecque, I have a question related to this,
18 but I did just want to flag that the response may be
19 confidential. And, if that's the case, we can wait and
20 discuss it later. But I wanted to know if PSNH was
21 currently buying or planning to buy RECs from any of
22 the IPPs that are the subject of the PPAs?

23 A. (Labrecque) Yeah. I would tend to agree that that is
24 confidential business discussions that we shouldn't

1 comment on here.

2 MS. HATFIELD: So, Mr. Chairman, perhaps
3 at some later point we can go into a confidential session
4 to discuss that?

5 CHAIRMAN GETZ: Is there anyone in the
6 room who's not subject to the constraints of
7 confidentiality?

8 (No verbal response)

9 CHAIRMAN GETZ: Doesn't appear to me
10 that there is. So, we could, as a matter of
11 confidentiality, could discuss this now, and then just ask
12 Mr. Patnaude to make sure that the pertinent part of the
13 record is redacted.

14 MS. HATFIELD: Okay. Thank you.

15 BY MS. HATFIELD:

16 Q. Mr. Labrecque, do you know if the Company is currently
17 under contract or planning to purchase RECs from any of
18 these facilities during the periods of the PPAs?

19 A. (Labrecque) Yes, I do. I do know. _____
20 _____
21 _____
22 _____
23 _____.

24 The only thing I would add is that, you

1 know, _____
2 _____
3 _____
4 _____
5 _____
6 _____
7 _____
8 _____
9 _____.

10 CHAIRMAN GETZ: And, let me just add
11 that, to the extent that any of the previous discussion
12 needs to be redacted, I just ask the parties to work
13 together, try and come to some agreement, make sure
14 Mr. Patnaude is apprised.

15 MS. HATFIELD: Thank you, Mr. Chairman.

16 BY MS. HATFIELD:

17 Q. _____
18 _____
19 _____?

20 A. (Labrecque) _____.

21 Q. Do you know whether these plants are eligible for Class
22 I or Class III New Hampshire RECs?

23 A. (Labrecque) I did at one time, and I may be able to
24 recall it here.

1 Q. But it would be either Class I or Class III?

2 A. (Labrecque) Yes. Except that I believe one of them has
3 a -- say the first 15 megawatts of their production --
4 an increment of their production over some baseline I
5 believe is Class I, and the baseline is Class III. I
6 know one is purely Class I. Two -- two are strictly
7 Class III. And, I believe one is neither.

8 Q. _____
9 _____
10 _____?

11 A. (Labrecque) _____.

12 Q. _____
13 _____?

14 A. (Labrecque) _____
15 _____
16 _____
17 _____

18 excess? You know, it was a problem. So, we did not
19 need those RECs.

20 Q. Mr. Frantz, you have referred a few times to there
21 being many benefits under the PPAs, do you recall that?

22 A. (Frantz) Yes.

23 Q. What are the benefits, as you see them, to PSNH
24 ratepayers?

1 A. (Frantz) Well, there's an additional source of
2 renewable power, even though they're not buying the
3 RECs. There's -- most of the benefits for PSNH
4 ratepayers really come down to benefits in general to
5 the economy and to the jobs and to the North Country
6 and to the businesses associated with this.

7 A. (Labrecque) Can I add one thing there? There would be
8 kind of an indirect benefit, to the extent these five
9 plants continue to operate over the term of these PPAs,
10 as opposed to not operate. There would be that much
11 more RECs in the market, to the extent PSNH is buying
12 RECs, the additional supply in the market would serve
13 to keep the REC prices lower than they otherwise would
14 have been. So, our cost of RPS compliance will have
15 some impact in it, positive impact.

16 Q. Mr. Frantz, in your testimony you referred to the
17 requirement that "the PPAs not adversely affect PSNH's
18 energy service rate." Do you recall that?

19 A. (Frantz) I do.

20 Q. Why is it so important, from your point of view, that
21 the energy service rate not be increased?

22 A. (Frantz) It wasn't important from my point of view. It
23 was one of the negotiating principles that we started
24 this with. I mean, everyone goes into the negotiation

1 with certain principles that they need. There are
2 wants and then there are needs. And, this was a clear
3 line in the sand for PSNH from day one.

4 Q. And, do you think that may have something to do with
5 the recent impacts of migration on PSNH?

6 A. (Frantz) I think that's a better question for PSNH.
7 But it's clear that that was a very important point for
8 them throughout the negotiations. Certainly, in my
9 opinion, but it's my opinion, there's some pressure
10 there on migration.

11 But, whether that was the only reason,
12 or there are other reasons, I just know what they
13 stated, and how firm they were about that, that
14 principle.

15 Q. On Page 6 of your testimony, you referred to the PPAs
16 being at a "reasonable cost", do you recall that? I'm
17 referring to Line 16.

18 A. (Frantz) Yes. "Reasonable cost to PSNH customers",
19 yes.

20 Q. And, you think that they're reasonable, even though
21 they are likely to be over market?

22 A. (Frantz) I think they're reasonable in light of the
23 benefits the state actually gets out of these
24 agreements. Would I prefer that they were lower?

1 Probably, you know. But I think that the balance was
2 met. A lot of things went forward that were goals of
3 the State, and certainly of the Governor, and that
4 includes the Berlin Biomass Project, got to break
5 ground on October 7th, employ a lot of people and go
6 forward. There's a lot of benefits, and not just
7 Berlin, but to other projects, such as Isaacson
8 Structural Steel. I think keeping these projects for
9 this short amount of time going, and the environment
10 that we're in today, is a good thing.

11 Q. Earlier we discussed the materials that you reviewed at
12 the Wood IPPs' attorneys' offices, do you recall that?

13 A. (Frantz) Yes.

14 Q. And, you I think said that your review was "to confirm
15 the Initial Wood Price in the PPAs", is that right?

16 A. (Frantz) Yes.

17 Q. And, that's a confidential number?

18 A. (Frantz) Yes.

19 Q. Do you recall that the information showed that wood
20 that is delivered to the IPPs came from most of the
21 states in New England?

22 A. (Frantz) I have reviewed that. And, for all but a
23 couple of projects, by far the majority actually is
24 from New Hampshire. And, for even -- for maybe one or

1 two, it's maybe 50 percent from New Hampshire and
2 50 percent from out-of-state. But, certainly, the vast
3 majority is New Hampshire wood product.

4 Q. Do you recall that there's one plant where more wood
5 comes from Maine than New Hampshire?

6 A. (Frantz) Yes.

7 Q. And, do you recall that there's one plant where a fair
8 amount more comes from Vermont than New Hampshire?

9 A. (Frantz) Yes.

10 Q. Do you recall the discussion earlier about whether the
11 shift of the over-market costs would be temporary or
12 permanent?

13 A. (Frantz) Sometimes I'd like to forget that. But, yes,
14 I do recall that.

15 Q. And, if you -- do you have a copy of Exhibit 9 in front
16 of you?

17 A. (Frantz) Yes, I do.

18 Q. And, this is a copy of both your response to Staff 2-7,
19 as well as PSNH's response to Staff 2-7?

20 A. (Frantz) Yes.

21 Q. And, Mr. Labrecque, when you were asked about this
22 earlier, I think you said you "weren't comfortable
23 providing more information about the Company's
24 position", is that right?

1 A. (Labrecque) Yes.

2 Q. But, if we look at the Company's original filing with
3 the Petition, which I believe is "Exhibit 1", do you
4 have that in front of you?

5 A. (Labrecque) Yes.

6 Q. Could you please turn to Page 8.

7 A. (Labrecque) Page 8 of the Petition, I've got it.

8 Q. And, these are the paragraphs where the Company
9 requests specific relief, is that right?

10 A. (Labrecque) Yes.

11 Q. And, in Paragraph C, the Company asks to transfer the
12 liquidated amount of 8.5 million. Do you see that?

13 A. (Labrecque) Yes.

14 Q. And, then, in D, it's -- the Company is requesting to
15 increase distribution rates on the first day of the
16 month after the IPPs are effective. Do you see that?

17 A. (Labrecque) Yes.

18 Q. Is there anywhere here that talks about that shift
19 ending that you're aware of?

20 A. (Labrecque) No.

21 Q. Mr. Frantz, I think you were asked questions earlier
22 about the least cost integrated resource planning law.
23 Do you recall that?

24 A. (Frantz) I do. I believe Mr. Rodier asked me the

1 questions.

2 Q. And, I think it's been your testimony that these PPAs
3 are consistent with PSNH's IRP?

4 A. (Frantz) I believe that was in Mr. Hall's testimony.
5 But I think that, in general, they would be consistent
6 with the IRP.

7 Q. Are you familiar with the least cost IRP law?

8 A. (Frantz) Somewhat, yes.

9 Q. So, you're familiar that -- with Section 37 of that law
10 that talks about it's "the energy policy of this state
11 to meet the energy needs of the citizens and businesses
12 of the state at the lowest reasonable cost"?

13 A. (Frantz) Could you refer me to the exact statute?

14 Q. Sure. It's RSA 378:37.

15 A. (Frantz) I am there.

16 Q. So, you see the language about the "lowest reasonable
17 cost"?

18 A. (Frantz) It states that, and other language follows
19 that.

20 Q. Right. It goes on to talk about "reliability",
21 "diversity", "safety/health", "physical environment",
22 and "future supplies", is that right?

23 A. (Frantz) Correct.

24 Q. If the Commission approves the PPAs, would you agree

1 that it's important for the Commission to make clear
2 that they're approving over-market contracts for this
3 case only, to avoid the potential for future proposals
4 of over-market contracts?

5 A. (Frantz) Well, my view always has been that this is, as
6 far as I'm concerned, a unique case and unique
7 circumstances, and that this should not be a precedent.

8 Q. And, Mr. Frantz, you just referred a few minutes ago to
9 the Berlin plant, the fact that it is now under
10 construction. Do you recall that?

11 A. (Frantz) Yes. I believe it broke ground on October
12 7th.

13 Q. If the Commission doesn't approve these PPAs, does it
14 have any impact on that plant?

15 A. (Frantz) Probably not. But I echo Commissioner Bald's
16 view on that. These deals were highly complex and
17 difficult to negotiate, and a large package deal. I
18 think it would be bad policy to look back, and I'm not
19 suggesting that you're saying so, but to look back and
20 say "well, one of the major goals was to get the
21 Supreme Court case withdrawn, and the Berlin Biomass
22 Project going, and the New Market Tax Credits approved,
23 and the benefits that accrue to those projects", and
24 then say "Eh, we got those, and now let's forget this."

1 I think that that would be bad government policy. And,
2 the next time any kind of negotiations or deals went
3 forward, people would have memories of that, and it
4 would be difficult to ever negotiate in good faith,
5 something along that line.

6 Q. But, in this case, the IPPs did negotiate a deal that
7 raised that risk for them, did they not?

8 A. (Frantz) They did. They took a tremendous risk.

9 Q. Mr. Hall, I have a few questions for you about your
10 rebuttal testimony.

11 A. (Hall) Okay.

12 Q. If you would please turn to Page 5. At Line 1, you
13 state "PSNH cannot agree to a ratemaking proposal that
14 does not ensure the timely full recovery of all costs
15 of the PPAs." Do you see that?

16 A. (Hall) Yes.

17 Q. And, then, the next sentence you say "To do so would
18 expose PSNH to the risk of not recovering the
19 above-market cost." Do you see that?

20 A. (Hall) Yes.

21 Q. So, the risk, all of the risk for the above-market
22 costs is on ratepayers in this proposal?

23 A. (Hall) The above-market cost is a public policy cost,
24 the way I see it. And, if the Commission approves

1 these PPAs, they will be approving recovery of an
2 above-market cost from all customers. The reason that
3 I said what I did in this testimony goes back to
4 something that we discussed a little earlier, and that
5 is that there is no benefit to PSNH's shareholders as a
6 result of these arrangements. And, therefore, it would
7 make no sense for PSNH to assume any of the risk
8 associated with the arrangements, especially the risk
9 of non-recovery of above-market costs. To do so would
10 expose PSNH to just downside risk with no upside
11 potential.

12 Q. But do you agree with Mr. Frantz that there's a lot of
13 benefit or "upside potential", in your words, for
14 ratepayers?

15 A. (Hall) If the Commission finds that these are in the
16 public good, yes.

17 Q. But do you think that there is benefit to ratepayers?

18 A. (Hall) To customers? To the extent that customers
19 represent the public as a whole, yes. There are public
20 good benefits, as discussed by Mr. Bald in his
21 testimony and Mr. Frantz in his.

22 Q. Further down on Page 5, you talk about problems with
23 one of the ratemaking proposals that Mr. Mullen
24 suggested as an alternative. Do you see that,

1 beginning on Line 7?

2 A. (Hall) Yep. Yes, I do.

3 Q. And, then, you provide the definition of "stranded
4 cost" from the statute, is that right?

5 A. (Hall) Yes.

6 Q. And, down on Line 22, you indicate that one of the
7 definitions of "stranded cost" is a "new mandated
8 commitments approved by the Commission", is that right?

9 A. (Hall) Yes.

10 Q. And, then, on the next page, Page 6, on Line 12, you
11 state that, if these PPA costs or the over-market
12 costs, I think, are "deemed to be new mandated
13 commitments", then "they could be recovered through the
14 Stranded Cost Recovery Charge", is that right?

15 A. (Hall) Yes, it is.

16 Q. Then, on Page 7, starting at Line 17, you discuss
17 another ratemaking mechanism that the Commission could
18 adopt, "if none of Mr. Mullen's alternatives are
19 acceptable". Do you see that?

20 A. (Hall) Yes.

21 Q. And, then, on Page 8, at Line 2, you state "Under this
22 alternative, the Commission would create a new and
23 distinct nonbypassable distribution charge." Do you
24 see that?

1 A. (Hall) Yes.

2 Q. So, the Company would not object to that approach?

3 A. (Hall) Correct. The approach that I have isn't all
4 that different from the approach that we proposed in
5 the Joint Petition. There are some subtle differences.
6 But, to the extent that the Commission finds the
7 approach proposed in the Joint Petition unacceptable,
8 this is an alternative approach.

9 Q. Would this different approach have the benefit of
10 providing transparency to customers, so they could see
11 what they're paying for?

12 A. (Hall) As compared to what's contained in the proposal
13 in the Joint Petition?

14 Q. Yes.

15 A. (Hall) It could, if it was a separately stated charge
16 on the bill. But I didn't go so far as to propose it
17 be a separately stated charge on the bill.

18 MS. HATFIELD: Could I have one moment
19 please?

20 CHAIRMAN GETZ: Yes.

21 (Atty. Hatfield conferring with Mr.
22 Eckberg.)

23 BY MS. HATFIELD:

24 Q. Mr. Frantz, I think in your testimony you compare the

1 over-market cost of these PPAs to the Laidlaw or the
2 Berlin plant PPA, do you recall that?

3 A. (Frantz) I believe I stated that they are below the
4 costs in Laidlaw, correct. I believe those costs were
5 \$69.80 per megawatt-hour.

6 Q. So, these are over-market, but they're less over-market
7 than the other PPA?

8 A. (Frantz) Just a little bit.

9 Q. And, that price that you quoted for the Berlin PPA,
10 that's not the all-in cost, is it?

11 A. (Frantz) No. That was just the energy cost. That did
12 not include capacity or REC prices.

13 Q. And, in that case, ratepayers are paying -- are
14 purchasing those other products as well?

15 A. (Frantz) Yes. Up to certain limits imposed by the
16 Commission.

17 MS. HATFIELD: I have nothing further.
18 Thank you very much.

19 CHAIRMAN GETZ: Thank you. Mr. Damon.

20 MR. DAMON: Thank you.

21 BY MR. DAMON:

22 Q. Let me ask you, Mr. Frantz, you were directly involved
23 in the negotiation of the Wood PPAs, correct?

24 A. (Frantz) Correct.

1 Q. And, without disclosing any of the particulars of the
2 negotiations at the end of the process, are you
3 satisfied that the pricing terms in the Wood PPAs
4 represent the lowest achievable price for PSNH's
5 purchase of power from the Wood IPPs at this time?

6 A. (Frantz) Well, I'm not sure if you ever know what the
7 lowest possible price is in negotiations. You reach a
8 position that parties can agree to. And, in this case,
9 PSNH and the Woods could reach that price. I'm not
10 sure anyone knows what the lowest possible price is. I
11 don't think that's knowable.

12 Q. Right. By the same token, though, you don't know that
13 there was a better deal for ratepayers than this?

14 A. (Frantz) Based on the negotiations and how difficult
15 they were and complex, I'm pretty satisfied that this
16 was the best deal we were going to get. And,
17 certainly, in the time frame that we were given the
18 task to accomplish our goals. And, they had been
19 negotiating and discussing purchase power agreements
20 for potential solutions for the difficulties for the
21 Wood IPPs for long before Ms. Ross and I got involved
22 in this process. As a matter of fact, we were aware of
23 some of these issues as far back as about a year ago,
24 and had some meetings with the Governor's Office of

1 Energy and Planning and DRED throughout the spring.

2 And, ultimately, we were asked to attend a meeting in
3 early June to see if something could happen. Because,
4 absent something happening in the Supreme Court case
5 that was pending, it was very likely that the Laidlaw
6 Project, now known as the "Berlin Biomass Project",
7 would probably not go forward in the time frame that
8 was expected, and a lot of benefits in that Project
9 would be lost. So, I think our original mandate from
10 the Governor was "can you get a deal by the end of
11 June, which is less than four weeks?" And, we worked
12 throughout the summer diligently to get there.

13 Q. Thank you. Mr. Hall, should the Commission view the
14 pricing terms of the Wood PPAs as the price for keeping
15 the Wood IPPs in business or as the price of the Wood
16 IPPs giving up their appeal, or perhaps both?

17 A. (Hall) I think that's a better question for Mr. Frantz.

18 Q. Okay.

19 A. (Hall) I wasn't involved in the negotiations, so I
20 really can't answer that.

21 A. (Frantz) Could you repeat it please, Mr. Damon?

22 Q. Sure. Should the Commission view the pricing terms in
23 the Wood PPAs as the price for keeping the Wood IPP
24 facilities in business or as the price for the Wood

1 IPPs giving up their appeal, or both?

2 A. (Frantz) I don't think it's either/or. I think it's --
3 I think it's a negotiation that involved a lot of
4 potential benefits. And, part of the outcome of that
5 was that the IPPs withdrew the Supreme Court case.
6 They got short-term -- fairly short-term purchase power
7 agreements for that. The benefits to the North Country
8 accrued, and New Market Tax Credits went forward. I
9 think jobs were, I'm convinced, actually kept alive
10 because of this. So, I don't think it's as simple as
11 black and white. I think a lot of people benefited,
12 and will benefit, based on approval of these
13 agreements.

14 Q. Mr. Hall, in your rebuttal testimony, you have put
15 forward a possible new and distinct nonbypassable
16 distribution charge. And, I would ask you, if the
17 Commission were to approve that charge, how would that
18 charge be consistent with a provision in RSA 369-B:3,
19 IV(b)(1)(a), which says that "the price of default
20 service shall be PSNH's actual costs of providing such
21 power", as well as "prudent and reasonable", but how
22 would it be consistent with that provision that says
23 "default service shall be PSNH's actual costs of
24 providing such power"? If you want, I can show you the

1 statute book, but --

2 A. (Hall) No, I have it in front of me. I don't have an
3 answer for you. That's a legal conclusion. And, I'm
4 simply not expert on the interpretation of that law.

5 Q. Excuse me, does anyone else on the panel have anything
6 to add?

7 A. (Frantz) No.

8 Q. Perhaps this is a question that the PSNH witnesses
9 would be in a better position to answer than Mr.
10 Frantz, but I will leave it up to you on the panel to
11 decide who should answer it. But a number of
12 alternative proposals for a ratemaking treatment of the
13 above-market costs have been put forward and so on. As
14 I see it, there doesn't seem to be any perfect solution
15 here. But I'd like to ask PSNH, why wouldn't it be
16 practical to have PSNH put into effect a renewable
17 energy source rate, consistent with RSA 374-F:3, V(f),
18 that includes the above-market cost of PPAs or even
19 perhaps the whole contracts into that rate?

20 A. (Hall) I'm going to need that reference again please.

21 Q. Sure. 374-F:3, V(f), which I believe provides for, and
22 I think PSNH has a tariff that provides for that kind
23 of a rate, a Renewable Energy Source rate.

24 A. (Hall) My understanding of that provision of law is

[WITNESS PANEL: Labrecque|Hall|Frantz]

1 that it is an optional renewable. It's an optional
2 rate for customers. And, therefore, if the Commission
3 were to order that these costs be recovered through
4 this optional rate, and no customers took service under
5 the optional rate, PSNH would have no means of
6 recovering the above-market costs.

7 Q. Do you know or, Mr. Labrecque, do you know about how
8 many customers are taking service under that rate?

9 A. (Labrecque) Not exactly. I'm thinking it's in the
10 hundreds.

11 A. (Hall) Yes, or less. I haven't checked recently. I
12 know it increases by a small amount every month, but I
13 just don't recall offhand what the most recent report
14 said. I believe we file reports quarterly with the
15 Commission.

16 A. (Frantz) We just -- Mr. Damon, we received at the
17 Commission a report, a recent report, and I did look at
18 it. And, I don't remember exactly what the number was,
19 but it's a fairly small number still, probably a couple
20 hundred customers.

21 MR. DAMON: All right. Could I make a
22 record request then that that number as reflected in the
23 most recent report be provided?

24 CHAIRMAN GETZ: Well, why don't we just

1 hold an Exhibit Number 18 for the most recent quarterly
2 report on that voluntary rate.

3 MR. DAMON: Okay.

4 **(Exhibit 18 reserved.)**

5 WITNESS FRANTZ: We could probably get
6 that for you at a break, Mr. Damon.

7 MR. DAMON: Okay. Great. Thank you.

8 BY MR. DAMON:

9 Q. Another possibility that occurs to me as to whether the
10 above-market cost to the PPAs, or even the whole
11 contracts, as to whether they could be recovered
12 through the System Benefits Charge under 374-F:3, VI,
13 is that even a possibility? And, if so, what would be
14 the pros and cons of that?

15 A. (Frantz) I'm sorry, could you repeat that for me?

16 Q. Sure. Another possibility, it seems to me, for
17 treating the above-market costs of the PPAs, or even
18 the whole contract costs, could be to recover the costs
19 -- PSNH's costs of those through the System Benefits
20 Charge, consistent with the 374-F:3, VI. And, I'd just
21 like to know, from either the Company's perspective or,
22 Mr. Frantz, from your perspective, what the pros and
23 the cons of that would be?

24 A. (Frantz) It's a very good question, and it's one that

1 we actually looked at in some detail. Because,
2 certainly, there are benefits, and it's the type of
3 benefit for a program that you'd think the System
4 Benefit Charge could include. After all, it includes
5 low income customer benefits and energy efficiency
6 benefits, and it could be perceived to be in that same
7 light. Now, it's explicit in that statute, under VI,
8 that may include, and I'm sure you're referring to "but
9 not necessarily be limited to, programs for low-income
10 customers, energy efficiency programs", I have stated
11 these before under, I think, cross from Mr. Rodier.
12 But, at the end, it says "research and development, and
13 investments in commercialization strategies for new and
14 beneficial technologies." Well, certainly, there's
15 nothing new about these projects or that they're using
16 new technologies. And, though I'm obviously not an
17 attorney, this one was given great consideration. And,
18 to some degree, it's attractive. But I think it's not
19 clear and explicit in the statute. If it were to
20 actually have said "for renewable energy projects", and
21 not necessarily "new and beneficial technologies", I'm
22 not so sure we wouldn't have gone this way. But we
23 know that you can -- the Commission could potentially
24 move costs that were common costs, and that were in

1 distribution rates previously, back into the
2 distribution rates.

3 So, it's an option worth weighing. But
4 I think that, at least for me, and I'm pretty sure from
5 the Joint Petitioners, we prefer the option that was
6 presented to the Commission in the Petition.

7 Q. Okay. I mean, I could think that possibly one of the
8 downsides to that would be that, if you do include
9 these contract costs in the SBC charge that other
10 worthwhile SBC-funded programs would be limited or
11 curtailed in some way in order to make sure that
12 everything gets funded properly. I mean, would that be
13 one of the downsides?

14 A. (Frantz) I think the downside is actually that it's
15 been untried. It would be new, and there's probably
16 some kind of litigation risk associated with trying
17 something like that.

18 Q. Mr. Frantz, Ms. Hatfield asked you some questions about
19 the Initial Wood Prices and some of the information
20 that you learned based on your review of those, and, in
21 particular, regarding the source of some of the
22 information. And, I think you talked in general terms
23 about that. But I'd like to show you a Wood IPP
24 response to an OCA request, that was OCA Request 1-5.

1 And, I'm going to show you the redacted portion. And,
2 ask you if you are familiar with that document?

3 A. (Frantz) I am.

4 (Atty. Damon distributing documents.)

5 MR. DAMON: Commissioners, I would ask
6 that this be marked as an exhibit at this time.

7 CHAIRMAN GETZ: The next exhibit is 19.
8 (The document, as described, was
9 herewith marked as **Exhibit 19** for
10 identification.)

11 MS. HATFIELD: Mr. Chairman? I'm going
12 to object to this. So, I wonder, does the Commission want
13 me to note that and discuss it now or wait until after
14 it's discussed?

15 CHAIRMAN GETZ: Well, let's take a look
16 at the document. Well, let's find out, for what purpose
17 are you wanting to introduce this, Mr. Damon?

18 MR. DAMON: Yes. My reason for asking
19 that this be marked for identification as an exhibit is
20 that I would like to ask whether or not the information
21 contained in that exhibit has any bearing on the
22 assessment of the public interest in New Hampshire of the
23 wood purchases and where, and the source of those wood
24 purchases.

1 CHAIRMAN GETZ: Ms. Hatfield.

2 MS. HATFIELD: I'm, frankly, struggling
3 with this, Mr. Chairman, because I actually inquired about
4 this without entering the exhibit. So, I think it's been
5 established that Mr. Frantz, Mr. Mullen, and Mr. Eckberg
6 did review this type of information. And, there might be
7 a way for Mr. Damon to ask his questions without admitting
8 it. My concern with admitting it is that this is
9 information from the wood plants. You will see the
10 witness identified as "none". And, so, there is not a
11 witness available to attest to the truth of this
12 information or in any way, you know, be available for
13 cross-examination or anything of that nature. And, I
14 think, you know, it's been a long, long-standing approach
15 of the IPPs to not provide witnesses. And, I think, if
16 you don't provide a witness, then you can't get your
17 witness's information into the record.

18 It's possible that one of these
19 witnesses might be -- feel that they're able to testify to
20 this information. So, that's certainly another option.

21 CHAIRMAN GETZ: Yes. Well, certainly,
22 there's a question of how much weight to give this,
23 because the witness is listed as "none", and none is
24 available here today to be inquired of. So, I guess I

[WITNESS PANEL: Labrecque|Hall|Frantz]

1 would permit the question, and to the extent that any of
2 the witnesses has independent information that could
3 verify the general accuracy of these tonnage numbers,
4 which I expect is where you're headed, correct, Mr. Damon?

5 MR. DAMON: Yes.

6 CHAIRMAN GETZ: So, why don't we proceed
7 and see if someone can independently speak to the
8 accuracy. And, then, whatever we get, we'll give the
9 weight it is due.

10 BY MR. DAMON:

11 Q. Yes. Mr. Frantz, let me ask you a preliminary
12 question, before I ask the main question I'd like to
13 ask based on this exhibit. Are the tonnages reported
14 by source, state or province in that exhibit consistent
15 with the impression you formed after reviewing the
16 Initial Wood Prices at the Wood IPPs' offices?

17 A. (Frantz) Well, when we reviewed the Wood IPP prices,
18 our focus was mostly on the actual price. And,
19 although we saw lots of suppliers and from different
20 places, we didn't necessarily tally up exactly tonnage
21 by state or province. We were much more focused on the
22 actual prices that were paid.

23 Q. So, just in relative terms, though, are these tonnages
24 sourced to New Hampshire, you yourself cannot say that

{DE 11-184} [Redacted - for public use] {11-30-11/Day 1}

1 those are consistent with the information that was
2 looked at that day when you went over there?

3 A. (Frantz) Oh, I can say that a lot of the suppliers were
4 New Hampshire suppliers, absolutely. But I can't
5 necessarily tie these numbers directly to the actual
6 tonnage by state. I mean, we could have done that.
7 I'm not sure I wouldn't have --

8 (Court reporter interruption.)

9 **CONTINUED BY THE WITNESS:**

10 A. (Frantz) I'm not sure, I'd have to go back and look at
11 every receipt again. I'm not sure Mr. Mullen or
12 Mr. Eckberg would either. But we saw a lot of
13 suppliers and we saw a lot that had New Hampshire
14 addresses. But we focused, at least I know I did, on,
15 for the most part, the actual prices that were paid to
16 the suppliers.

17 BY MR. DAMON:

18 Q. Okay. Well, if these numbers are accurate to a
19 reasonable degree, and assuming that, what do they
20 show, if anything, in terms of the extent to which
21 these PPAs serve a public interest that is confined
22 really to New Hampshire, because that's what we're
23 talking about?

24 A. (Frantz) Well, I think anyone who has followed the wood

1 industry closely, and the Wood IPPs and the Laidlaw
2 proceeding and the Schiller proceeding, understands
3 that there's only a certain distance you can truck
4 with. And, it depends on, for the most part, the price
5 of diesel fuel. It's a heavy product. You can't go
6 too far or the price just gets exorbitantly high. And,
7 so, the closer the better.

8 Obviously, projects that are located
9 near boundaries, you know, they're going to cross over
10 more, and you'll probably see less from that state,
11 because they're going to get wood where the wood's
12 cheapest and delivered from. Projects that are located
13 in the center of New Hampshire, it's really likely that
14 they're going to be almost getting all of their wood
15 from New Hampshire, or at least the vast majority of
16 it, because this is a product that's very, again, tied
17 closely to distances.

18 MR. DAMON: Thank you. I would propose,
19 based on that answer, that the Commission allow this
20 exhibit into evidence and give it the weight, if any, that
21 it deserves.

22 CHAIRMAN GETZ: Well, we've marked it
23 for identification. We'll entertain, at the end of the
24 hearing, in the normal process, what should be admitted

1 into evidence.

2 MR. DAMON: Thank you.

3 BY MR. DAMON:

4 Q. Mr. Frantz, you had estimated a overall rate impact, I
5 think it's in your testimony on Page 7, starting at
6 Line 9 to 14. And, you say, on Lines 9 and 10, that
7 "the overall rate impact", and I think that was with
8 the originally estimated numbers, "is approximately
9 0.00111 per kilowatt-hour based on a cents per
10 kilowatt-hour methodology."

11 A. (Frantz) Correct.

12 Q. Could you explain that?

13 A. (Frantz) Yes. I was taking total over-market over the
14 life of the projects, and looking at -- actually,
15 that's looking at the \$8.5 million over distribution
16 rate kilowatt-hour sales annually.

17 Q. Okay. Now, with the updated numbers that have been
18 introduced as an exhibit, I believe through
19 cross-examination by the OCA, do you have a rough
20 estimate of what effect those -- that increase in the
21 amount of over-market amounts would have on your
22 estimation of that overall rate impact?

23 A. (Frantz) It would be about a 20 to 25 percent increase
24 over the 1.1 mills. It would be slightly hire. On an

1 annual basis, it would be less than that. But we can
2 calculate it. Let me think about that. It's actually
3 the same, because it's the same 8.5 million.

4 A. (Hall) Right.

5 A. (Frantz) Yes. It's the same. Because we're only
6 looking at a liquidated 8.5 million per year. So,
7 that's the same. Now, how quickly it gets recovered,
8 the term length could change, because it's a higher
9 number. But the actual rate impact on any one year to
10 distribution rates is actually the same. Did you
11 understand that, Mr. Damon?

12 Q. Mr. Mullen did.

13 A. (Frantz) Okay.

14 (Laughter.)

15 **BY THE WITNESS:**

16 A. Again, it would extend the recovery time, not the rate.
17 The rate impact is the same.

18 BY MR. DAMON:

19 Q. Thank you. Mr. Labrecque, I'll show you a copy of
20 Exhibit 5 that's been marked for identification, the
21 Master Power Purchase & Sale Agreement. And, just for
22 the record, would you identify that as the underlying
23 agreement to which the Confirmation that is attached to
24 your testimony refers?

1 A. (Labrecque) That's correct.

2 Q. Okay. Also, and this would be a question as well for
3 the PSNH witnesses, the Petition states that the
4 purchases under the Wood PPAs constitute supplemental
5 power purchases under RSA 369-B:3,IV(b)(1)(A). And,
6 that statute provides or contemplates PSNH's provision
7 of Default Service through supplemental power
8 purchases, if necessary. And, would you explain for
9 the record how the purchases under the Wood PPAs are
10 necessary, just in view of that statutory requirement?
11 And, in other words, I think what I'm thinking about
12 is, do the energy purchases meet a shortfall in serving
13 PSNH's load --

14 (Court reporter interruption.)

15 BY MR. DAMON:

16 Q. Do the power purchases meet a shortfall in serving
17 PSNH's load that is not met by PSNH's own generation?

18 A. (Labrecque) Yes.

19 Q. Okay. And, so, even at taking account of these
20 purchases under the Wood PPAs, there's still a
21 shortfall that's made up through additional purchases?

22 A. (Labrecque) I'll tell you what I know. I'm not
23 directly involved in the portfolio planning for ES
24 anymore. But, in talking with those that are still

1 directly involved, in their planning for supplemental
2 purchases for 2012, we discussed the quantity of power
3 that might be flowing under these five deals, should
4 they be approved. And, in their planning, they're
5 currently setting aside that quantity, reserving a spot
6 for it, and strategizing over the remainder. You know,
7 so they have left a gap. So, in effect, yes, to your
8 question.

9 Q. Okay. And, that's true, as far as you know, over the
10 life of these contracts?

11 A. (Labrecque) Yes.

12 CHAIRMAN GETZ: Mr. Damon, could you say
13 again the cite that you used at the beginning of that
14 question?

15 MR. DAMON: Oh, yes.

16 369-B:3, IV(b)(1)(A).

17 CHAIRMAN GETZ: Thank you.

18 BY MR. DAMON:

19 Q. Mr. Labrecque, I'd like to ask you a couple of
20 questions about PURPA and so on, to try and clear up a
21 couple questions at least I have for the record. You
22 state at Page 3 of your testimony that, at Line 4, that
23 "Although those [old] rate orders have now expired,
24 each of the facilities still qualifies as a "qualifying

1 facility" or "QF" under PURPA, and must continue to be
2 so qualified throughout the duration of each PPA." Why
3 do you say they "must be so qualified throughout the
4 duration of the PPA"?

5 A. (Labrecque) Because that was made an explicit term in
6 each PPA.

7 Q. In the next sentence, you say "Pursuant to PURPA,
8 certain QFs (i.e., those with net generating capacity
9 less than or equal to 20 megawatts) continue to have
10 the entitlement under federal statute", and I won't
11 quote the statute, "and FERC regulations to require
12 PSNH to purchase electrical" -- "electric energy from
13 their facilities." Are the Wood IPP facilities,
14 represented by these PPA contracts, are those within
15 those type of QFs?

16 A. (Labrecque) What do you mean by "those type of QFs"?

17 Q. Well, you've made a general statement there. And, you
18 don't quite state that these Wood IPPs are those type
19 of QFs that you're referring to in Lines 6 through 9.

20 A. (Labrecque) Right. I believe their reference to
21 "certain QFs" is elaborated on in the discussion here,
22 "those with [a] net generating capacity less than or
23 equal to 20 megawatts", because PSNH sought a waiver at
24 FERC from the requirement to purchase from QFs in

1 excess of 20 megawatts. And, that was granted two
2 years ago or a year ago, I don't recall.

3 There's -- there's one of these five
4 plants that it would be subject to debate whether or
5 not their net generation capacity is less than or equal
6 to 20 megawatts. I won't debate both sides of it here,
7 but it's -- it's close. And, legally, what defines
8 under PURPA, "net generating capacity", or whatever the
9 legal term that is used actually in PURPA, I'm not
10 positive, and where that facility will fall under a
11 rigorous scrutiny of the law.

12 Q. Okay. And, to be honest, I will confess to you, I am
13 not an expert in this area. I'm sure that there are
14 people in the room who are much more expert than I am
15 or were this morning. But this morning you testified,
16 I think, as I recall, that "PSNH was obligated to pay
17 avoided costs", but you didn't specify what type of
18 avoided costs. And, I think there are short-term and
19 long-term avoided costs. And, can you clarify that to
20 any greater extent, what you meant by that statement?

21 MR. BERSAK: Mr. Chairman, that's where
22 I objected. Saying that, whatever is required under PURPA
23 is a legal obligation, and the Company briefed that in the
24 09-067 docket. Asking these witnesses what they think the

[WITNESS PANEL: Labrecque|Hall|Frantz]

1 law may or may not require I'm not sure is relevant to
2 this proceeding, nor is it necessarily going to be
3 accurate.

4 CHAIRMAN GETZ: Do you have a response,
5 Mr. Damon?

6 MR. DAMON: Well, you know, I believe
7 Mr. Labrecque did testify that "PSNH was obligated to pay
8 avoided costs." So, my question was simply to try to
9 clarify in my own mind what that is. If it's a legal
10 conclusion that the witnesses up there can't answer, I'll
11 accept that. But, to be honest, I don't know enough about
12 this area to know what the problem is.

13 MR. BERSAK: I can remind the Commission
14 that, in the restructuring docket, there was a settlement.
15 In that settlement, the Company's continuing obligations
16 under PURPA regarding avoided costs was set and approved
17 by this Commission.

18 CHAIRMAN GETZ: Well, I guess I would
19 leave it at this is, you know, Mr. Labrecque, is there
20 anything that you can offer in response to Mr. Damon in
21 addition to what's in your prefiled testimony? Do you
22 have any further opinion about the requirements under
23 PURPA.

24 WITNESS LABRECQUE: No.

{DE 11-184} [Redacted - for public use] {11-30-11/Day 1}

1 BY MR. DAMON:

2 Q. Again, a question for PSNH. Why does the Company
3 oppose the inclusion of the entire cost of the Wood
4 PPAs in the energy service rate?

5 A. (Hall) It's because these costs that are above-market
6 are being incurred for public policy reasons. And,
7 since energy service is only one segment of PSNH's
8 total customer base, it doesn't seem right to require
9 one segment of PSNH's customers to incur these costs,
10 nor does it seem right for these costs to be avoidable
11 as a result of selection of a supplier. These are
12 public policy costs, they ought to be incurred by all
13 customers. And, by including them only in the energy
14 service rate, they could be avoided by customers and
15 would not be paid for by all customers.

16 Q. Is the Company's concern about increasing the risk of
17 customer migration, is that any part of the Company's
18 reason for opposing the inclusion of the entire cost in
19 the energy service rate?

20 A. (Hall) That's a secondary consideration. The primary
21 consideration is really "why are these costs being
22 incurred?" They're being incurred for the public good.
23 And, if they're being incurred for the public good,
24 then they ought to be recovered from all customers, not

1 just one segment of customers, and they shouldn't be
2 avoidable.

3 Q. I'd like to draw your attention to Attachment 1 to the
4 Petition, which is the "Settlement, Release and Support
5 Agreement", with exhibits. And, this is an agreement
6 between the Wood IPPs, Berlin Station, LLC, Laidlaw
7 Berlin Biopower, LLC, and Cate Street Capital, Inc.
8 And, could you identify who Berlin Station, Laidlaw
9 Berlin Biopower, and Cate Street Capital are, that are
10 identified, and they are signatories actually to this
11 agreement?

12 A. (Labrecque) They're the three entities that are
13 responsible either for the financing, development,
14 ownership, operation of the new biomass facility in
15 Berlin.

16 Q. Do you know which entity is responsible for what
17 aspects of those functions?

18 A. (Labrecque) No. I could make an attempt. I'd probably
19 get some of it right, some of it wrong. I mean, they
20 have been through a number of corporate reorganizations
21 and restructurings and transfers of this and that over
22 the last couple of years that I've lost track of
23 exactly who's who.

24 Q. Yes, and some of them have been fairly recent, I think.

1 To my knowledge, "Cate Street", I hadn't heard of that
2 name until fairly recently. Okay. The Petition
3 requests the Commission to approve the Settlement
4 Agreement, which -- well, "Settlement, Release and
5 Support Agreement", which I shortened to "Settlement
6 Agreement". But is the Commission being asked to
7 approve any of the agreements or undertakings by any
8 party other than PSNH?

9 A. (Labrecque) Who specifically might you be referring to?

10 Q. Any of the other signatories. Any of the Wood IPPs,
11 Berlin Station, Laidlaw Berlin Biopower, Cate Street.
12 They made certain commitments in here, too. And, is
13 the Commission being asked to approve those
14 commitments?

15 A. (Labrecque) I'm reading from the Petition.

16 MR. BERSAK: Mr. Chairman, I don't
17 believe that any of the other signatories of this are
18 jurisdictional entities under this Commission's authority.
19 So, to the extent that Attorney Damon's question is --
20 goes to "whether the approval of this Commission goes
21 somehow to the other signatories?" I don't think that's
22 possible, given the limited regulatory scope of this body.
23 If his question was, "did all the Joint Petitioners seek
24 the approval of the Commission of this Settlement?" The

1 answer is "yes". It was filed with the Petition. So, I'm
2 not quite sure exactly what way you intended.

3 CHAIRMAN GETZ: Mr. Damon, your concern
4 is that might we inadvertently approve something that we
5 don't have the authority to approve or I guess is what Mr.
6 Bersak is suggesting?

7 MR. DAMON: Well, yes, that's in the
8 back of my mind, and to try to clarify what this approval
9 of this Settlement Agreement actually means. It's stated
10 very broadly, and yet there's a lot of different aspects
11 of it and different parties and so on. I'm trying to just
12 sort out, "if you agreed to approve it, what are you going
13 to be approving?"

14 CHAIRMAN GETZ: Well, I'll permit you to
15 pursue that, to see if there's something in here that
16 might lead down that path.

17 BY MR. DAMON:

18 Q. You're shaking your head?

19 A. (Labrecque) I can't add anything. I can't help you
20 with that.

21 Q. You can't add anything beyond what Mr. Bersak has said?

22 A. (Labrecque) Correct.

23 Q. There's an Exhibit B attached to the Settlement,
24 Release and Support Agreement, and it's entitled

1 "Procedure for Withdrawal of Appeal". And, that
2 document, in turn, refers to a financial closing that,
3 as I understand it, has already occurred on
4 September 2nd of this year. And, is the Commission
5 expected to approve that financial closing or any of
6 the other undertakings in Exhibit B?

7 A. (Labrecque) "The Commission to approve a financial
8 closing"?

9 Q. That's already occurred, correct.

10 A. (Labrecque) I don't know how they can do that. I don't
11 understand how they could be asked to approve a
12 financial closing that's already occurred.

13 Q. Thank you. So, would you agree with me that the
14 Commission is really be requested to approve PSNH's
15 entry into the Settlement Agreement and its commitments
16 made in the Settlement Agreement?

17 A. (Labrecque) To the best of my understanding, yes.

18 A. (Hall) Yes.

19 Q. Okay. And, one of the commitments I think refers to
20 the PSNH's release of claims to the Wood IPPs. So, the
21 Commission is being asked to approve PSNH's release of
22 claims to the Wood IPPs according to the Petition. Is
23 that your understanding is part of what this document
24 does?

1 A. (Labrecque) Yes.

2 A. (Hall) Yes.

3 Q. Okay. And, with respect to PSNH's releases granted in
4 Section 3, which is on the -- is on the third page of
5 the document, the last sentence of that section says
6 that "PSNH hereby represents and warrants that it has
7 no knowledge, after due inquiry, of any such claims,
8 demands, damages, losses, suits, proceedings, actions,
9 causes of action, injunctive relief or other equitable
10 or legal remedies against or with respect to any other
11 Party." And, my question on that would be whether you
12 have done the due inquiry or whether you know who did?

13 A. (Labrecque) That would have been performed by counsel.

14 Q. Would you agree that PSNH is in a better position than
15 the Commission to know about the risk of any claims
16 against or with respect to any other party?

17 A. (Labrecque) PSNH or any other party that's been, you
18 know, closely involved in all the interlocking
19 negotiations.

20 Q. Sure. Okay. Now, as I understand it, according to
21 PSNH's response to Staff 2-5, which I believe is
22 attached to Mr. Mullen's testimony as "SEM-5" [SEM-3?],
23 "as PSNH's shareholders make no return whatsoever from
24 these agreements, those shareholders cannot be asked to

1 take on the risk of the Company's entry into the
2 Settlement, Release and Support Agreement, and the
3 mutual releases contained therein, were imprudent."

4 And, so, from that, would you agree with me that isn't
5 the effect of the Commission's approval to put the risk
6 of the Company's imprudence on ratepayers ultimately?

7 A. (Labrecque) Yes.

8 Q. Why isn't the Company willing to guarantee that there
9 are no claims against or with respect to any other
10 party?

11 A. (Labrecque) We stated in a discovery response that
12 we're "not aware of any", but that's -- it doesn't rise
13 to the level of being a guarantee.

14 Q. I know that. And, that -- I'm asking, why wouldn't the
15 Company guarantee that? It's only acknowledging it
16 "has no knowledge", but it's not guaranteeing that.

17 A. (Hall) It goes back to what I had testified to earlier,
18 and that is, there really is no upside in this
19 arrangement for PSNH. So, for PSNH to make that
20 guarantee, and then after-the-fact somehow it's
21 discovered that we missed something, and now we're
22 subject to a penalty as a result, places PSNH in a
23 position where there's only potential downside. There
24 is no upside. So, basically, all we're saying is

1 "leave PSNH in a position where it's in a break-even
2 position", rather than exposing PSNH to a risk of a
3 downside potential.

4 Q. And, in effect, isn't PSNH asking the Commission to
5 eliminate the Company's risk that it is incorrect in
6 its statement in the Settlement Agreement that it
7 "knows of no claims against or with respect to any
8 other party"?

9 A. (Hall) Yes.

10 Q. A couple of final questions, Mr. Hall, on your rebuttal
11 testimony. And, this relates to the -- and it's on
12 Page 8, the idea or the concept of a "new and distinct
13 nonbypassable distribution charge". And, will you just
14 explain, how would the amount of such a new charge
15 initially be determined?

16 A. (Hall) How would it initially be determined?

17 Q. Determined, right.

18 A. (Hall) We would have to do it on an estimated basis.
19 It would have to be subject to reconciliation after
20 it's in effect.

21 Q. But you would have to put some charge in effect, and
22 how would you determine what that would be?

23 A. (Hall) By estimating what the over-market cost is.

24 Q. Okay. And, that would -- would that be done on an

1 annual basis?

2 A. (Hall) It could, yes.

3 Q. Okay.

4 A. (Hall) That's what would make the most sense to be
5 allocating.

6 Q. Okay. And, I take it then the charge would be
7 periodically reconciled to determine the actual
8 above-market costs of the PPAs?

9 A. (Hall) Yes.

10 Q. Mr. Frantz, earlier this morning you testified that,
11 "in your view, no allocation method is perfect", and I
12 don't think there are many people here who would
13 disagree with that statement. But that's a pretty
14 general statement. I would just like to know whether
15 you know of a better method than revenues for making
16 allocations of assessment and uncollectible expense
17 costs?

18 A. (Frantz) No. That's probably the preferred method for
19 those costs.

20 MR. DAMON: Thank you. No further
21 questions.

22 CHAIRMAN GETZ: Commissioner Ellsworth.

23 CMSR. ELLSWORTH: I just have a few.

24 And, I would caution the parties not to read anything into

1 the questions that I'm asking. I'm not going anywhere
2 with them, I'm not fishing for something, I'm not offering
3 any alternative at this point.

4 BY CMSR. ELLSWORTH:

5 Q. Could I go back to the eight and a half million that's
6 being allocated each year. Could one of you give me
7 the genesis of that, how you arrived at that figure
8 please.

9 A. (Frantz) Well, the eight and a half million was arrived
10 at as really early on in the negotiation process --

11 (Court reporter interruption.)

12 **BY THE WITNESS:**

13 A. (Frantz) The eight and a half million was mentioned
14 early on in the negotiation process as a potential way
15 to mitigate any increase to energy service rates
16 associated with the potential over-market costs of
17 whatever negotiation with these IPPs. And, it was
18 originally proposed by PSNH, because it was a rate -- a
19 level of costs associated that was once in distribution
20 costs. And, therefore, it was potentially a cost that
21 could be allocated back to distribution costs.

22 BY CMSR. ELLSWORTH:

23 Q. So, was it related at all to the estimated \$20 million
24 that this whole thing was going to amount to?

1 A. (Frantz) No. Originally, it was just an idea. It was
2 an idea of costs that could be allocated, not
3 necessarily the number. But the number comes out of
4 the Settlement Agreement in the PSNH rate case. Those
5 were the costs, that level of dollars were the costs
6 that were allocated back to generation costs from
7 distribution, associated with regulatory expenses and
8 uncollectibles.

9 Q. And, that will then leave you with a revenue stream
10 that you I think all agree will be less than the total
11 number of dollars that ultimately have to be recovered
12 under this Settlement. Is that accurate?

13 A. (Frantz) This was an 8.5 million annual number. And,
14 it's important to understand that these over-market
15 costs will certainly exceed, at least anticipated now
16 in the forecast, that 8.5 million.

17 Q. And, at the time that those negotiations were
18 completed, did you have any estimate as to how long a
19 period the overcollection period would go?

20 A. (Frantz) Well, \$20 million is, you know, two and a half
21 years.

22 Q. And, now, based on I think it was the \$25.2 million
23 that was offered here today, do you have any sense of
24 how much longer that will extend the recovery period?

1 Is it a period of days, months, or years?

2 A. (Frantz) It will extend it by about 20, 25 percent
3 longer.

4 Q. In each of the contracts, as I understand it, will --
5 has a finite termination date, is that right? We
6 talked a little bit about that this morning.

7 A. (Frantz) Yes. Well, a number of the contracts end on a
8 certain date. A number of the contracts end May 31,
9 2013. One of the contracts runs through a full 21
10 months effective on the effective date of the contract
11 after a non-appealable Commission order. And, one of
12 the contracts actually starts in 2012, and runs for 21
13 months after that.

14 Q. Okay.

15 A. (Frantz) Now, they could end earlier, depending on
16 output, because these have caps on them. There are
17 megawatt-hour caps. If those megawatt-hour caps are
18 hit early, they could actually end earlier than those
19 termination dates.

20 Q. And, one question I omitted earlier on the eight and a
21 half million, and, again, don't read anything into
22 this. If the Commission opted to find a different
23 number, what would that do to the Settlement?

24 Assuming, let's say, that we said it was 8 million or

1 9 million, instead of eight and a half million. And,
2 if we could justify that in the record, what does that
3 do, if anything, to the Settlement?

4 A. (Hall) I think PSNH would have to assess the
5 Commission's order and make a decision accordingly. I
6 can't answer that question just in isolation. We'd
7 really need to look at the entire order.

8 Q. Okay.

9 A. (Frantz) I believe the Joint Petitioners, in general,
10 would have to look at that. PSNH would certainly do
11 that, looking at its own interests. But I'm sure the
12 Wood IPPs would also have to look at whatever changes
13 the Commission made to what the Petition states now.

14 Q. Why would the IPPs care, as long as they were going to
15 continue to get their contract prices, they would get
16 their revenue stream, and it would just be a matter of
17 whether you delay the --

18 A. (Frantz) They may not.

19 Q. -- the PSNH stream?

20 A. (Frantz) They probably wouldn't. But I'm just saying
21 that any changes that the Commission made I'm sure
22 would mean that the Joint Petitioners would --

23 (Court reporter interruption.)

24 **CONTINUED BY THE WITNESS:**

1 A. (Frantz) They may be fine with the changes.

2 Understanding that any change would probably require
3 that all the parties at least evaluate it.

4 BY CMSR. ELLSWORTH:

5 Q. That's helpful. Then, it would risk reopening the
6 negotiation process amongst the parties?

7 A. (Frantz) Well, in general, any change makes a new
8 evaluation, a new decision point. It may be a very
9 quick decision point that says "we can all live with
10 this and we're fine." Or, depending on a change in
11 term or condition or price or something like that, it
12 may be the kind of decision that says "we'll see what
13 happens."

14 Q. And, just to return to a discussion we had earlier this
15 morning regarding the expiration date of the contracts.
16 At the end of the contract period, the contracts end
17 and will have to be renegotiated? Can be either --
18 either not negotiated or renegotiated, is that true?

19 A. (Frantz) I know I'm not looking forward to doing any
20 renegotiations at the end of these contracts.

21 Q. No. But is it reasonable to expect that, at the end of
22 these contracts, the SPPs are all going out of business
23 and you're going to go off somewhere else?

24 A. (Frantz) No, I think that -- No. I think the

1 expectation was, from the very beginning on this, was
2 that these contracts are fairly short-term, obviously,
3 but they cross over two legislative periods. And,
4 there may be changes in the RPS statute that may affect
5 them or there may be changes over that period of time
6 that may make them more viable in today's market.

7 Q. Okay. But, in -- and, in any event, you recommended
8 this morning that the Commission speak to the
9 termination period to this Settlement?

10 A. (Frantz) Actually, the treatment of the costs, if they
11 are as proposed, that they're, in my opinion,
12 temporary.

13 Q. And, the last -- we talked about Mr. Hall's fourth
14 alternative, if you will, after you evaluated the first
15 three, and then you came up with a fourth. And, you
16 had a discussion this afternoon about whether or not it
17 would be viable to put it as a separate item on a bill.
18 Administratively, administratively only, is that a
19 doable thing?

20 A. (Hall) It's doable with sufficient time. It's not
21 something we could do within, you know, a week's time
22 frame. But, you know, I mean, it's administrative
23 effort, it's programming effort. It takes time.

24 Q. And, my last question, I'm trying to avoid making it a

1 legal question, because neither you nor I know anything
2 about the legal business. But, in the negotiations,
3 what legal basis was brought to you as the best
4 justification for going forward with this contract or
5 not going forward with this contract? Can you lead us
6 to a couple of specific statutes that you found to be
7 the most strongly supportive or the most strongly
8 condemning the proposed Settlement?

9 A. (Frantz) Commissioner, I can -- I'm not sure I can
10 explicitly do that. I can tell you that we wore out
11 some statute books looking for what we thought were the
12 best places and the best statutes upon which to bring
13 this Petition, and especially the ratemaking provisions
14 that are contained within the Petition. And, it's
15 clear to say that different parties had different views
16 of what the best mechanism was for recovery of these
17 costs. Because, as you may be able to tell, there's,
18 shall we say, I wouldn't say "problems", but almost
19 like the cost allocators, there's some question
20 marks about any one particular method, whether it's in
21 stranded costs or whether it's in renewables or whether
22 it's a common cost allocation method of putting the
23 costs back in distribution, that was a major challenge
24 of what was the best way to proceed and file this at

1 the Commission for your approval.

2 Q. But did any of you come up with a most likely
3 successful, sustainable, supportable statute that would
4 justify what you were doing?

5 A. (Frantz) I think it's the Petition that you have in
6 front of you.

7 Q. Okay. Just refer to the ones that you made reference
8 to?

9 A. (Frantz) Yes.

10 CMSR. ELLSWORTH: Okay. I have no other
11 questions.

12 CHAIRMAN GETZ: Thank you. Any
13 redirect?

14 MS. ROSS: Could we confer for a moment?

15 CHAIRMAN GETZ: Please.

16 (Atty. Ross conferring with the witness
17 panel.)

18 CHAIRMAN GETZ: Okay. We're back on the
19 record. Opportunity for redirect.

20 MR. BERSAK: Thank you, Mr. Chairman.

21 **REDIRECT EXAMINATION**

22 BY MR. BERSAK:

23 Q. Mr. Hall, do you recall earlier this morning that
24 Attorney Rodier was asking you about whether Public

1 Service Company had any customers that were served
2 directly at transmission and might be able to avoid
3 certain costs, depending on how the ratemaking
4 treatment was put into effect for these PPAs?

5 A. (Hall) Yes.

6 Q. And, you recall that there was a question regarding the
7 Seabrook Nuclear Station?

8 A. (Hall) Yes.

9 Q. Does Seabrook take service from Public Service under
10 their Backup Standby Rate B?

11 A. (Hall) Yes, they do.

12 Q. Is Backup Standby Rate B a state retail jurisdictional
13 rate?

14 A. (Hall) Yes.

15 Q. And, is the tariff for Rate B subject to the approval
16 and jurisdiction of this Commission?

17 A. (Hall) Yes, it is.

18 Q. So, would Seabrook be charged whatever this Commission
19 determines is necessary and proper to be put into that
20 rate?

21 A. (Hall) Yes.

22 Q. Also, during the course of cross-examination, you were
23 asked questions by both Attorney Hatfield and Attorney
24 Damon, with respect to how the Company would determine

1 what's over-market and what's not over-market should
2 these PPAs be approved. Do you recall those questions?

3 A. (Hall) Yes, I do.

4 Q. Does the Company today have any similar purchase
5 obligations under rate orders issued by this Commission
6 to purchase power at above-market rates?

7 A. (Hall) Yes.

8 Q. How are those above-market rate orders dealt with in
9 the ratemaking process today?

10 A. (Hall) On a prospective basis, PSNH estimates what the
11 above-market cost is for each of those rate orders.
12 And, it does so by looking at an estimate for market
13 prices, and comparing it to rates under the rate
14 orders, and the difference is the above-market portion.
15 After the fact, when PSNH reconciles its energy service
16 costs, it compares the amount that it pays to each one
17 of the IPPs under those rate orders to the actual
18 locational marginal price hour by hour. The difference
19 between those two is the above-market portion of the
20 costs.

21 Q. How does the Company collect those above-market costs?

22 A. (Hall) PSNH collects those costs through its Stranded
23 Cost Recovery Charge as a Part 2 stranded cost.

24 Q. So, that's a nonbypassable charge that's included in

[WITNESS PANEL: Labrecque|Hall|Frantz]

1 the delivery rates paid by all PSNH customers?

2 A. (Hall) Yes, it is.

3 Q. And, the part of the rate orders that are at market,
4 how is that recovered?

5 A. (Hall) The portion that's at market is recovered
6 through the energy service rate from customers who take
7 energy service from PSNH.

8 Q. So, is that mechanism which you just described, which
9 the Company uses for existing rate orders,
10 substantially similar to what you testified would be
11 done with these PPAs, should they be approved by the
12 Commission?

13 A. (Hall) Yes. It would be the same. It would be
14 identical.

15 MR. BERSAK: Thank you. Thank you, Mr.
16 Chairman.

17 CHAIRMAN GETZ: Ms. Ross? Anyone else
18 have redirect?

19 MS. ROSS: I have no redirect. Thank
20 you.

21 CHAIRMAN GETZ: Okay. Then, I think
22 that completes the inquiry to these witnesses. So, you're
23 excused. Thank you, gentlemen.

24 WITNESS HALL: Thank you.

{DE 11-184} [Redacted - for public use] {11-30-11/Day 1}

1 CHAIRMAN GETZ: Let's go off the record
2 for a second.

3 (Brief off-the-record discussion
4 ensued.)

5 CHAIRMAN GETZ: All right. Let's go
6 back on the record. And, I'll just note that we've had a
7 discussion off the record about the conduct of the direct
8 and cross-examination of Mr. Mullen. And, there's
9 agreement among the parties to do written closing
10 arguments in lieu of oral arguments. And, what we'll do
11 at this point is recess for the day, and we will resume
12 tomorrow morning at 10:00 a.m. So, if there's nothing
13 further, then we're in recess. Thank you.

14 (Whereupon the hearing adjourned at 3:26
15 p.m. and the hearing to resume on
16 December 1, 2011, commencing at 10 a.m.)

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