

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

December 1, 2011 - 10:09 a.m.
Concord, New Hampshire

DAY 2

RE: DE 11-184

NHPUC DEC05'11 PM 3:07

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:
Robert A. Bersak, Esq.
Sarah B. Knowlton, Esq.

Reptg. the Wood-Fired IPPs:
David J. Shulock, Esq. (Olson & Gould)
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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APPEARANCES: (C o n t i n u e d)

Reptg. Residential Ratepayers:

Meredith Hatfield, Esq., Consumer Advocate
Stephen Eckberg
Office of Consumer Advocate

Reptg. PUC Staff:

Edward N. Damon, Esq.
Suzanne G. Amidon, Esq.
Steven E. Mullen, Asst. Dir./Electric Div.

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E X H I B I T S

EXHIBIT NO.	D E S C R I P T I O N	PAGE NO.
20	Response to PSNH Data Request 1-3 (10-28-11)	27

1 P R O C E E D I N G

2 CHAIRMAN GETZ: Okay. Good morning,
3 everyone. We'll resume the hearings in Docket DE 11-184.
4 Let's take appearances, before we turn to the testimony of
5 Mr. Mullen.

6 MR. BERSAK: Good morning,
7 Commissioners. Back again for Public Service of New
8 Hampshire, myself, Robert Bersak and Sarah Knowlton.

9 CHAIRMAN GETZ: Good morning.

10 MS. KNOWLTON: Good morning.

11 MS. ROSS: And, for the Advocate Staff,
12 Anne Ross.

13 CHAIRMAN GETZ: Good morning.

14 MR. SHULOCK: For the Wood IPPs, David
15 Shulock and David Wiesner.

16 CHAIRMAN GETZ: Good morning.

17 MR. SHULOCK: Good morning.

18 MS. HATFIELD: Good morning. Meredith
19 Hatfield, for the Office of Consumer Advocate, and with me
20 is Steve Eckberg.

21 CHAIRMAN GETZ: Good morning.

22 MR. DAMON: Good morning, Commissioners.
23 Edward Damon, for the Staff, and also Suzanne Amidon, and
24 with us this morning is Steve Mullen.

1 CHAIRMAN GETZ: Good morning. Is there
2 anything we need to address before we hear from Mr.
3 Mullen?

4 MS. ROSS: Yes. Two things,
5 Commissioners, if you wouldn't mind. I have Staff --
6 Non-Advocate Staff has supplied me with the most recent
7 report on the Renewable Energy Option. That was a record
8 request designated as "Exhibit 18", --

9 CHAIRMAN GETZ: Eighteen, yes.

10 MS. ROSS: -- which I would like to
11 submit.

12 (Atty. Ross distributing documents.)

13 MS. ROSS: Also, Commissioners, if
14 possible, I was hoping that I could ask Commissioner Bald
15 to come up to the stand briefly this morning. He's been
16 able to gather the additional information on the
17 attachment to his supplemental response. There were
18 questions about the 50 percent application to the second
19 half of that chart. And, I thought it might be easiest if
20 we just did that today on the record quickly, and then we
21 wouldn't have to do any follow-up submission on it. And,
22 parties could ask questions, if they needed to.

23 CHAIRMAN GETZ: Is there any objection
24 to that procedure?

[WITNESS: Bald]

1 (No verbal response)

2 CHAIRMAN GETZ: Okay. Hearing none,
3 then, Commissioner Bald. And, this is with respect to
4 what was marked as "Exhibit 7"?

5 MS. ROSS: Yes. This is Exhibit 7.

6 MR. BERSAK: And Exhibit 8 was reserved
7 for this record request.

8 MS. ROSS: Thank you.

9 (Whereupon **George M. Bald** was recalled
10 to the stand, having been previously
11 sworn.)

12 MS. ROSS: Could you swear the witness.
13 (Court reporter indicated that the
14 witness was previously sworn and is
15 still under oath.)

16 MS. ROSS: You're still under. You're
17 still under oath.

18 **GEORGE M. BALD, PREVIOUSLY SWORN**

19 **DIRECT EXAMINATION**

20 BY MS. ROSS:

21 Q. Commissioner Bald, would you mind turning to the
22 attachment to Exhibit 7, which is the "Summary of Taxes
23 Paid". And, just discussing what you've done to update
24 that information and to clarify it.

[WITNESS: Bald]

1 A. Yes. The question I believe was "if this represented
2 50 percent of the state's production, was this 50
3 percent or should -- could we theoretically double it?"
4 And, it is 50 percent. So, conceivably, 100 percent
5 would double all of the Payroll Tax, Unemployment Tax,
6 vehicle registrations, with the exception of the Timber
7 Tax. Timber Tax is paid locally. So, the 196,000
8 number is a 100 percent number.

9 Q. So, if we were to label each column, since we have
10 100 percent on the "Timber Tax" column, the payroll tax
11 would be 50 percent of production, the unemployment tax
12 would be based on 50 percent of production, as would
13 the vehicle registrations and the Fuel Road Tax?

14 A. Correct.

15 MS. ROSS: Okay. And, I will make the
16 witness available for questions, if there are any parties
17 who need further clarification.

18 CHAIRMAN GETZ: Are there any questions
19 for Commissioner Bald? Mr. Damon.

20 MR. DAMON: Although I have no questions
21 about this clarification, as long as Commissioner Bald is
22 up there, and in view of the fact that there has been no
23 agreement on whether or not Exhibit 19 should be admitted
24 into evidence, that relates to the tonnages and so forth,

[WITNESS: Bald]

1 if I could indulge the Commissioners' patience and ask him
2 a few questions about that, in an attempt to see if I can
3 provide enough information on which you could decide to
4 let it into evidence?

5 CHAIRMAN GETZ: Any objection?

6 MS. HATFIELD: Mr. Chairman, just to
7 clarify, Exhibit 19 is the OCA -- excuse me, the Wood
8 Plants' response to OCA 1-5, is that correct?

9 CHAIRMAN GETZ: Yes.

10 MS. HATFIELD: Thank you.

11 CHAIRMAN GETZ: Okay. Please proceed.

12 MR. DAMON: Thank you.

13 **CROSS-EXAMINATION**

14 BY MR. DAMON:

15 Q. Yes. Commissioner Bald, let me show you a copy of
16 Exhibit 19. And, can you just take a moment to
17 familiarize yourself with the question and the answers?

18 MS. HATFIELD: Mr. Chairman, I'm sorry,
19 can I ask a follow-up? Are we working from the
20 confidential version or the redacted?

21 MR. DAMON: Redacted.

22 MS. HATFIELD: Thank you.

23 CHAIRMAN GETZ: Yes. Exhibit 19 is the
24 redacted version.

[WITNESS: Bald]

1 MS. HATFIELD: Thank you very much.

2 WITNESS BALD: Okay.

3 BY MR. DAMON:

4 Q. Thank you. Commissioner Bald, I realize that you did
5 not produce this information, and I'm not asking you to
6 testify as to whether that information is true or
7 false. But, in terms of your own knowledge of the wood
8 markets in New Hampshire, and your knowledge of the
9 Wood IPP operations, I would ask you whether or not the
10 tonnages represented by state is at least consistent
11 with your understanding of where the majority of the
12 wood tends to come from for the Wood IPP operations?

13 A. Yes. It would appear to be certainly accurate. If
14 we're talking about, as I mentioned I think yesterday,
15 the Forests and Lands group periodically will do
16 studies on where wood goes. And, when you have higher
17 value whole logs, certainly, because the value is much
18 higher, you can travel longer distances. The wood
19 chips tend to be a lesser value forest product, and so
20 you would not have trucks driving, you know, long
21 distances. Certainly, you would expect it from the
22 borders, but you would expect that most of the wood
23 chips would originate in the State of New Hampshire.

24 So, I certainly can't say that the

[WITNESS: Bald]

1 tonnages are exact, but it seems reasonable to me that
2 those are good numbers.

3 Q. And, is it your understanding that the majority of the
4 wood that is used in the Wood IPP operations comes from
5 New Hampshire?

6 A. Yes.

7 Q. And, if you take that information into account, how
8 does that cut one way or another, if at all, with
9 respect to your understanding of the public interests
10 that would be served by allowing these Wood IPP
11 contracts to go into effect?

12 A. Well, again, I think it is good public policy. It
13 helps a lot of ways the economy of the state, and
14 certainly helps the IPPs, but also helps all the
15 truckers and the people that are out in the woods, and
16 it helps to strengthen that market for the low grade
17 woods that are used for chips.

18 You know, again, I'm glad to see that
19 we're doing things back and forth with other states. I
20 think, you know, there's -- they're probably doing
21 similar studies in Vermont that show, you know, that
22 New Hampshire products, some wood products are coming
23 in. But it would -- it certainly strengthens it that a
24 lot of the -- the majority is coming from the State of

[WITNESS: Bald]

1 New Hampshire. And, again, I think that reinforces why
2 this is good public policy to approve this.

3 MR. DAMON: Thank you. I have no
4 further questions.

5 CHAIRMAN GETZ: Anything further for
6 Commissioner Bald?

7 (No verbal response)

8 CHAIRMAN GETZ: Hearing nothing, then
9 you're excused. Thank you.

10 WITNESS BALD: Thank you.

11 CMSR. ELLSWORTH: Thank you for coming
12 back.

13 WITNESS BALD: Thank you.

14 CHAIRMAN GETZ: Mr. Damon.

15 MR. DAMON: I call Steven Mullen to the
16 stand.

17 (Whereupon **Steven E. Mullen** was duly
18 sworn by the Court Reporter.)

19 **STEVEN E. MULLEN, SWORN**

20 **DIRECT EXAMINATION**

21 BY MR. DAMON:

22 Q. For the record, will you please state your name and
23 business address.

24 A. My name is Steven E. Mullen. My business address is 21

[WITNESS: Mullen]

1 South Fruit Street, Concord, New Hampshire.

2 Q. And, have you filed prefiled direct testimony in this
3 docket on October 14, 2011?

4 A. Yes, I did.

5 Q. And, Exhibit 6 was marked for identification as your
6 direct testimony yesterday. And, is that testimony
7 true and accurate to the best of your knowledge and
8 belief?

9 A. Yes.

10 Q. Yesterday, also Exhibit 7 was marked for identification
11 as Commissioner Bald's supplemental response to
12 Non-Advocate Staff 1-5, which would constitute, I
13 think, a revision to your Attachment SEM-7, is that
14 correct?

15 A. Yes. That's correct.

16 Q. So, that would, I guess, constitute an addition to your
17 direct testimony. But do you have any other
18 corrections or additions to your direct testimony?

19 A. No, I do not.

20 Q. Mr. Mullen, you have read Mr. Hall's rebuttal testimony
21 filed by PSNH on November 14, which has also been
22 marked for identification, or I think -- and that's
23 part of -- well, I can't remember the exhibit number,
24 but --

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[WITNESS: Mullen]

1 A. Exhibit Number 4.

2 Q. Four. Thank you. Do you wish to address any of the
3 points that he has made in his testimony? And, if you
4 do, if you could do so briefly.

5 A. Yes. On Page 8 of his testimony, Mr. Hall talked about
6 the possibility, another alternative of creating "a new
7 and distinct nonbypassable distribution charge", which
8 would be temporary in nature. My first comment is, I'm
9 not quite sure why he refers to it as a "distribution
10 charge", as it would not be anything to recover
11 distribution costs. Perhaps his point was that it
12 would be charged to all distribution customers,
13 therefore all customers. So, I would instead refer to
14 it as a "temporary charge", rather than a "distribution
15 charge". Also, yesterday, Mr. Hall has stated that he
16 hadn't gone as far as proposing that the charge be
17 something that would be separately reported on
18 customers' bills. However, when I read his testimony
19 and his choice of the word "distinct", that I took to
20 mean that it would be something that would appear
21 separately on customers' bills. And, so, I just have a
22 different take on what Mr. Hall was proposing.

23 Q. With respect to Exhibit 11, which, if I recall
24 correctly, is the Settlement Agreement and Mutual

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[WITNESS: Mullen]

1 Release of Claims filed in Docket DE 07-122, are you
2 familiar with that docket?

3 A. Once I refreshed my memory, yes.

4 Q. And, based on your refreshed memory, could you explain
5 the context in which this agreement was entered into.

6 A. Sure. This case involved Hemphill Power & Light
7 Company, another -- well, actually, the IPP that's now
8 referred to as "Springfield". And, there was a dispute
9 between Hemphill and PSNH as to the end date of their
10 then existing rate order or contract, which -- that I
11 believe was a 20-year agreement. At the time, there
12 was a -- there was a dispute as to when exactly the
13 clock started or stopped on that agreement. And, the
14 parties were at a point where I think they were about a
15 \$7 million difference as to where they thought the --
16 because of that difference in time. The settlement
17 talks about they reached agreement and included a
18 payment by PSNH to Hemphill of three and a half million
19 dollars. So, part of what they sought -- they sought
20 recovery of the Settlement Agreement, part of which
21 would have been the recovery of that payment from PSNH
22 customers.

23 Q. Could you briefly explain how the circumstances of that
24 case differed, if at all, from those present in this

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[WITNESS: Mullen]

1 current docket?

2 A. Sure. As I just explained, there was a rate component,
3 a rate impact associated with that agreement. In
4 review of the settlement or mutual release agreement,
5 or I can't remember the exact term in this case, there
6 were no apparent rate implications in that agreement.
7 So, in reviewing it, and we asked in discovery, and
8 attached as Attachment SEM-3 and SEM-4 to my testimony,
9 there's a couple of discovery responses from PSNH.
10 Looking at Attachment SEM-3, PSNH made a statement that
11 "The Settlement, Release and Support Agreement does not
12 directly impact rates." That was Response (b), as
13 shown on Attachment SEM-3. Also, in Response (a), PSNH
14 made the statement that "However, as PSNH shareholders
15 make no return whatsoever from these agreements, those
16 shareholders cannot be asked to take on the risk that
17 the Company's entry into the Settlement, Release and
18 Support Agreement, and the mutual releases contained
19 therein, were imprudent."

20 So, in looking at all of that, and then
21 saying "well, there was no apparent rate impact and
22 there were no details concerning the release of
23 claims", it just left a question as to "what exactly is
24 the Commission approving?" I believe you went through

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[WITNESS: Mullen]

1 that yesterday in some questioning of the prior panel.

2 MR. DAMON: Thank you. Yesterday, there
3 was testimony, I believe, that the Commission approve this
4 Settlement Agreement and Mutual Release of Claims set
5 forth in Exhibit 11. And, I would ask the Commission at
6 this time if it would agree to take notice, administrative
7 notice of the order entered in that docket approving this
8 Settlement Agreement, is Order Number 24,919, dated
9 December 5, 2008?

10 CHAIRMAN GETZ: Is there any objection?

11 (No verbal response)

12 CHAIRMAN GETZ: Hearing none, we'll take
13 administrative notice.

14 (Administrative notice taken.)

15 MR. DAMON: Thank you.

16 BY MR. DAMON:

17 Q. Also, yesterday Exhibit 15 was marked, and that was, I
18 believe, an excerpt from the Settlement Agreement on
19 Permanent Distribution Service Rates in Public Service
20 Company of New Hampshire Docket DE 09-035. And, in
21 particular, I believe there was some testimony about
22 Section 12.2.3 of that document. Do you recall that
23 testimony?

24 A. Yes, I do.

[WITNESS: Mullen]

1 Q. What is your understanding of that section regarding
2 regulatory cost reassignments that were contemplated by
3 that section?

4 A. Well, regulatory cost reassignments are one of the few
5 types of exogenous events that were -- that are
6 detailed in Section 12 of that agreement. And, the
7 wording there is similar, if not the same, as wording
8 that we have in agreements with Granite State Electric
9 and Unitil Energy Systems. Putting this in context, in
10 terms of this whole "Exogenous Events" section, the
11 Settlement Agreement in DE 09-035, in terms of rate --
12 changes to distribution rates, essentially, except for
13 limited purposes, PSNH's distribution rates were
14 frozen. And, there are limited purposes for certain
15 types of capital additions that are set forth elsewhere
16 in that Settlement Agreement. And, there's a five year
17 stay-out period, unless certain conditions are met.

18 As part of the overall agreement in that
19 case, this "Exogenous Event" section was set up.
20 Essentially, to recognize the fact that sometimes there
21 are events beyond the Company's direct control, such as
22 a state initiated cost change in Section 12.2.1 or a
23 federally initiated cost change, regulatory cost
24 reassignments, externally imposed accounting rule

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[WITNESS: Mullen]

1 changes, or excess inflation. Things that the Company
2 has no direct control over. To say, "well, if we can't
3 come in for five years, if these things happen, we have
4 to make some provision for it."

5 So, in terms of the regulatory cost
6 reassignment, if you look at the details of that, those
7 -- that was put there for things based on actions taken
8 by a commission, FERC, NEPOOL, the ISO, or any other
9 official agency having authority over such matters.
10 They didn't -- this section did not contemplate any
11 petition in which PSNH, either on its own or as part of
12 a joint petition, actively sought to have the costs
13 reassigned. It was more for things outside their
14 control.

15 Q. Thank you. Now, you participated in the verification
16 of the initial wood prices of the PPAs, correct?

17 A. Yes, I did.

18 Q. And, as part of your review, did you see whether or not
19 any wood deliveries were coming from states other than
20 New Hampshire?

21 A. Yes.

22 Q. And, what was your understanding, based on your review
23 of that?

24 A. Well, as you heard from Mr. Frantz yesterday, the focus

[WITNESS: Mullen]

1 of that review was on the initial wood prices. While
2 we were not specifically tallying the amount of tonnage
3 that come from one state or another, we did observe for
4 the various plants that deliveries were coming from New
5 Hampshire and from other states. It varied by plant.
6 And, I think ones closer to the borders of Vermont and
7 Maine, you saw different trends than you did for plants
8 that were located more centrally in New Hampshire.

9 Q. So, based on your review of that information and based
10 on your review of Exhibit 19, which is the data
11 response, do you have any reason to believe that the
12 tonnages information in Exhibit 19 are incorrect?

13 A. No, I don't.

14 MR. DAMON: No further questions.

15 CHAIRMAN GETZ: Thank you. Ms.

16 Hatfield.

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

18 Good morning, Mr. Mullen.

19 WITNESS MULLEN: Good morning.

20 **CROSS-EXAMINATION**

21 BY MS. HATFIELD:

22 Q. I'd like to begin with a question about your testimony,
23 which has been marked as "Exhibit 6". Do you have that
24 with you?

[WITNESS: Mullen]

1 A. I do.

2 Q. Do I understand your testimony correctly to state that
3 you do not support shifting the over-market costs
4 related to the IPP energy to distribution rates?

5 A. As proposed in the original Petition. I do not support
6 what's proposed in the original Petition, that's
7 correct.

8 Q. And, you also pointed out in your testimony, and there
9 was testimony yesterday as well, that there seemed to
10 be a disagreement among the Joint Petitioners as to
11 whether such shifting would be temporary or permanent,
12 is that right?

13 A. Yes.

14 Q. And, I think your testimony stated that you believe
15 that, if there was such a shift for any type of charge,
16 it should be temporary?

17 A. Yes.

18 Q. And, how long do you think it should last, if there is
19 such a charge?

20 A. As short as possible.

21 Q. And, that time period might run past the term of the
22 PPAs, is that right?

23 A. As it was proposed, yes, due to the deferrals of any
24 amount -- any over-market amounts that exceeded eight

[WITNESS: Mullen]

1 and a half million dollars a year.

2 Q. Do you support the idea of deferring amounts over eight
3 and a half million?

4 A. Well, let me answer it this way. I do not support the
5 proposal as put forth in the Joint Petition. However,
6 one of my alternatives did have -- or, actually, a
7 couple of them have deferral aspects in there. So,
8 I'll just leave it at that.

9 Q. So, when you talk about "temporary", it's not
10 necessarily just for the term of the PPAs. You would
11 be open to it being a little bit longer than that?

12 A. Yes. And, in the case with any deferrals, it's hard to
13 nail down exactly how long they will last, especially
14 based on whatever conditions would take to start
15 recovering those deferrals.

16 Q. And, is it also difficult to know because we don't know
17 exactly how much over market these contracts might be?

18 A. Yes. We can only estimate it at this time.

19 Q. Do you have a copy of Exhibit 13 with you?

20 A. Yes, I do.

21 Q. And, this is your response to a question from the Wood
22 IPPs, is that right?

23 A. Yes.

24 Q. And, it's "Wood IPP 1-6"?

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1 A. Yes.

2 Q. And, this is a reference to the issue that's been
3 raised several times about the fact that the proposal
4 would change the Settlement Agreement in PSNH's last
5 rate case, is that right?

6 A. That's my -- that's my interpretation of it, yes.

7 Q. And, this question asked you if "the allocation method
8 in that rate case", or, actually, it refers to the last
9 two rate cases, "if they were statutorily mandated?"
10 Do you see that?

11 A. Yes, I do.

12 Q. And, after noting a legal objection, you did provide a
13 response, is that right?

14 A. Yes.

15 Q. And, you stated that "there is no statutory mandate",
16 right?

17 A. Correct.

18 Q. But then you went on to cite to a few provisions of RSA
19 374-F, is that correct?

20 A. Yes.

21 Q. And, can you just talk about the different provisions
22 that you cited and why you discussed things like
23 "competitive markets" and "customer choice" in your
24 response?

[WITNESS: Mullen]

1 A. Well, in my response, while I stated that it's correct
2 that "there's no statutory mandate", the restructuring
3 statute, RSA 374-F, provided in a couple of areas about
4 how there should be appropriate price signals to
5 electricity buyers and sellers, that was in 374-F:1,
6 II. 374-F:3, III, again talks about "clear price
7 information on the various components -- cost
8 components of the generation, transmission,
9 distribution, and other ancillary charges." And,
10 further, in 374-F:3, V(c) talks about how "the costs of
11 administering default service should be borne by the
12 customers of default service in a manner approved by
13 the commission."

14 So, those were all things, while there
15 wasn't a statutory mandate setting how the allocation
16 methods and ratios should be done, in general terms,
17 the restructuring statute talked about sending clear
18 price signals.

19 Q. Could you please turn to Page 16 of your testimony.

20 A. I'm there.

21 Q. Starting at Line 13, you provide some comments
22 regarding whether or not the shifting of costs would
23 remove costs from energy service that don't correlate
24 to the quantity of energy service provided. Do you see

[WITNESS: Mullen]

1 that?

2 A. Yes.

3 Q. And, your answer, on Line 17, you say "That position is
4 quite simple to discredit." Can you explain why you
5 don't agree with the Joint Petitioners on that point?

6 A. Sure. As set forth in the lines that follow, I explain
7 that -- first, I'll deal with uncollectibles. To the
8 extent that customers migrate to competitive suppliers,
9 PSNH's Default Service sales would be less. And,
10 therefore, if they have less Default Service sales,
11 they should have less Default Service uncollectibles.
12 So, there's a relation between the two.

13 Likewise, with the regulatory assessment
14 from the Commission, that is based on gross utility
15 revenues. Now, to the extent that more customers
16 migrate to competitive suppliers, Default Service
17 revenues would be lower, and, therefore, the total
18 gross utility revenues on which the assessment is based
19 would be lower. So, again, I see a direct relationship
20 between the two.

21 Q. Do you have a copy of Exhibit 17 with you?

22 A. I'm not sure if I do.

23 MR. DAMON: Let me provide him my copy.

24 MS. HATFIELD: Thank you.

[WITNESS: Mullen]

1 WITNESS MULLEN: I do now.

2 BY MS. HATFIELD:

3 Q. And, this was marked yesterday, and it's a response
4 from PSNH's current Energy Service docket. Do you see
5 that?

6 A. Yes.

7 Q. And, that docket is DE 11-215?

8 A. Correct.

9 Q. Are you participating in that docket?

10 A. Yes, I am.

11 Q. Have you reviewed this response?

12 A. Yes.

13 Q. And, I think there was testimony yesterday where Mr.
14 Hall stated that "the uncollectible expense and the
15 regulatory expense projected in the 2012 energy service
16 rate was approximately \$6.1 million." Do you recall
17 that?

18 A. Yes, I do.

19 Q. And, do you agree with his math?

20 A. Yes.

21 Q. Thank you. On Page 17 of your testimony, at Line 14,
22 you state "I view the transfer as no more than a
23 clawback of items that were previously bargained for."
24 Do you see that?

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[WITNESS: Mullen]

1 A. Yes, I do.

2 Q. And, does that relate to your prior explanation in
3 response to Mr. Damon's questions about the intent
4 behind the settlement provision in the distribution
5 rate case?

6 A. Yes.

7 Q. I'd like to show you another response that you provided
8 in this docket. It's your response to PSNH 1-3. Do
9 you have a copy of that?

10 A. I'm sure I do.

11 MS. HATFIELD: Mr. Chairman, I'd like to
12 have this marked please.

13 WITNESS MULLEN: This is a response to
14 PSNH or the Wood IPPs?

15 CHAIRMAN GETZ: Well, first, let's mark
16 this for identification as "Exhibit Number 20".

17 (The document, as described, was
18 herewith marked as **Exhibit 20** for
19 identification.)

20 CHAIRMAN GETZ: And, let me just note
21 while we're here that we had reserved Exhibit 8 for a
22 follow-up by Commissioner Bald. We had that follow-up
23 orally. So, Exhibit 8 then will be blank. There won't be
24 an Exhibit 8.

[WITNESS: Mullen]

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

2 WITNESS MULLEN: And, just so I can make
3 sure I have the right response, this is 1-3 to the Wood
4 IPPs or PSNH?

5 MS. HATFIELD: PSNH.

6 WITNESS MULLEN: Thank you. I have
7 that.

8 BY MS. HATFIELD:

9 Q. And, this request references your testimony at Page 17,
10 Line 19. Do you see that?

11 A. Yes.

12 Q. And, it references the fact that you "do not support
13 the ratemaking proposal in the Joint Petition",
14 correct?

15 A. Yes.

16 Q. And, then, it asks you to "provide a detailed
17 explanation of why you don't support [it]." Do you see
18 that?

19 A. Yes.

20 Q. And, then, you provide your response. And, in the last
21 paragraph, you again refer to "RSA 374-F". Do you see
22 that?

23 A. Yes, I do.

24 Q. Can you just explain why you included that in this

1 particular response?

2 A. It goes back to the point that I just made previously,
3 about the restructuring statute including references to
4 including "clear price signals regarding the cost
5 components".

6 Q. Thank you. If you would turn to Page 18, please, of
7 your testimony.

8 A. I'm there.

9 Q. At Line 13, one of your suggestions is that "the
10 above-market costs of the PPAs could be recovered
11 through the Stranded Cost Recovery Charge." Do you see
12 that?

13 A. Yes, I do.

14 Q. Would you agree that the over-market portion of these
15 IPPs is similar to stranded costs that customers have
16 paid in the past?

17 A. Yes.

18 Q. Do you have any sense of the general amount of stranded
19 costs related to IPPs that ratepayers have already
20 paid?

21 A. I know it's a very large number, with a lot of zeros.

22 Q. Is it close to a billion dollars?

23 A. I'd say that it's probably in the neighborhood.

24 Q. Do you know if some of those payments went to some of

[WITNESS: Mullen]

1 the IPPs that are currently seeking PPAs in this case?

2 A. Yes, it did.

3 Q. If the Commission did include the over-market costs
4 that might arise in this case in the current stranded
5 costs, do you know how long it might extend the period
6 that customers would have to pay stranded costs?

7 A. Well, under what I was proposing here, it would only --
8 it would last for -- these would be as part of, I would
9 assume, Part 2, and related to these particular
10 agreements, it would only go as long as the agreements
11 themselves. The stranded costs themselves would still
12 be in existence for other items that are being
13 collected, either from other existing IPP contracts or
14 from Part 1 stranded costs.

15 Q. Do you recall Mr. Hall's rebuttal testimony and his
16 discussion on this issue?

17 A. Yes.

18 Q. And, he references the stranded cost statute, do you
19 recall that?

20 A. Yes.

21 Q. Do you have his testimony before you?

22 A. I do.

23 Q. On Page 5, he provides that statute. Do you see that?

24 A. Yes.

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1 Q. And, down on Line 22, he includes the language from the
2 statute, stating that "stranded costs may include new
3 mandated commitments approved by the Commission." Do
4 you see that?

5 A. Yes.

6 Q. I think, in response to Mr. Damon's questions, you
7 discussed some of your thoughts about Mr. Hall's
8 rebuttal testimony, is that correct?

9 A. Yes.

10 Q. And, you highlighted his use of the word "distinct",
11 which appears on Page 8, at Line 2. Do you think that,
12 if the Commission were to approve a separate charge for
13 the recovery of the over-market costs, that it would be
14 better if it was a distinct charge?

15 A. That would be my preference.

16 Q. And, is that at least in part so that there's
17 transparency to customers?

18 A. Yes.

19 Q. You reference RSA 362-F in your testimony, and you also
20 have it as an attachment, is that correct?

21 A. That's correct.

22 Q. And, that's the Renewable Portfolio Standard law, is
23 that right?

24 A. Yes.

[WITNESS: Mullen]

1 Q. Is that a mechanism that is already in place for
2 customers to subsidize renewable energy?

3 A. Yes.

4 Q. Is it true that, because there are no Renewable Energy
5 Certificates in these PPAs, that that statute doesn't
6 apply in this case?

7 A. There are no RECs involved with these agreements. So,
8 I would say that that's correct. Well, I would say
9 that the general purpose of the statute still stands.
10 But, in terms of whether or not there are any REC
11 purchases that are further discussed in that statute,
12 there are none to be dealt with in this proceeding.

13 Q. Do you recall yesterday that there were some questions
14 asked about RSA 369-B:3?

15 A. Yes.

16 Q. And, do you have a copy of that statute in front of
17 you?

18 A. I do.

19 MS. HATFIELD: Mr. Chairman, I have a
20 few copies, if the Commissioners would like them?

21 CHAIRMAN GETZ: I think we're all set.

22 BY MS. HATFIELD:

23 Q. And, the section that was discussed yesterday I believe
24 is 369-B:3, IV(b)(1)(A). You see that section?

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[WITNESS: Mullen]

1 A. Yes, I do.

2 Q. And, if you look at that section it refers to the
3 provision of transition and default service, is that
4 right?

5 A. Yes.

6 Q. Could you please read the last sentence of that
7 provision.

8 A. "The price of such default service shall be PSNH's
9 actual, prudent, and reasonable costs of providing such
10 power, as approved by the commission."

11 Q. What does the word "actual" mean to you?

12 A. "Actual" means the amounts that they have actually
13 paid.

14 Q. So, those would include both costs equal to market and
15 costs over market?

16 A. Yes.

17 Q. So, if the Company entered into a contract, even a
18 short-term contract, all of the costs, the actual costs
19 would be included or should be included in the Default
20 Service rate?

21 A. I would say that one could certainly interpret the
22 statute that way.

23 Q. Do you have a copy of Exhibit 12 with you, Mr. Mullen?

24 A. I don't think I do.

[WITNESS: Mullen]

1 MR. DAMON: I'll provide it.

2 MS. HATFIELD: Thank you.

3 BY MS. HATFIELD:

4 Q. This is Mr. Frantz's response to your Question 1-10.

5 Do you see that?

6 A. Yes, I do.

7 Q. And, do you recall that we had some discussion of this
8 yesterday?

9 A. Yes.

10 Q. If you look at the response in the second paragraph, do
11 you see the sentence that states "Moreover, the
12 Commission has a duty to balance consumer and investor
13 interests"?

14 A. Yes.

15 Q. When trying to strike that balance, what investor
16 interest does the Commission have to balance?

17 A. Well, and I think Mr. Frantz went through this
18 yesterday, in terms of, if you do a strict meaning of
19 "investor interest" for PSNH, well, there's one
20 shareholder for PSNH, and that is Northeast Utilities,
21 the parent company. However, there are investors in
22 Northeast Utilities, of which there are numerous.

23 Q. Usually, when the Commission is performing that
24 balance, is it between consumer interests and utility

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1 investor interests?

2 A. Yes.

3 Q. Do you recall yesterday Mr. Damon inquiring of the
4 panel about the possibility of the Company recovering
5 some of the costs of the PPAs under the Optional
6 Renewable Energy statute?

7 A. Yes, I do.

8 Q. Are you familiar with that law?

9 A. Generally, yes.

10 Q. And, that's found in 374-F:3, is that right?

11 A. Yes.

12 Q. And, that law requires that an electric utility "shall
13 provide to its customers one or more Renewable Energy
14 Service options". Is that correct?

15 A. Are you reading from a particular spot?

16 Q. Yes. RSA 374-F:3, V(f)(1) -- excuse me, (f)(2).

17 A. Yes, I see that.

18 Q. And, above that, in (f)(1), it refers to "renewable
19 energy source", correct?

20 A. Correct.

21 Q. So, when a utility offers that, the energy in that
22 particular option must be renewable, correct?

23 A. Must meet the qualifications set forth in the statute
24 and refer to RSA 362-F.

[WITNESS: Mullen]

1 Q. And, "renewable" generally means that the electricity
2 has renewable energy certificates associated with it,
3 is that right?

4 A. What it says, it "would qualify to receive renewable
5 energy certificates", yes.

6 Q. And that, in this case, these PPAs, we've already
7 established, don't have renewable energy certificates
8 associated with the energy, is that correct?

9 A. That is not what PSNH is -- will be acquiring as part
10 of these PPAs. The facilities, themselves, I think the
11 testimony yesterday was "all but one qualified for one
12 class or another."

13 Q. But, when energy is separated from the renewable energy
14 certificates, it is not considered "renewable" under
15 legal definitions, is it?

16 A. I'll leave that for the legal people to decide.

17 Q. If PSNH wants to comply with the RPS statute, they have
18 to procure RECs, is that correct?

19 A. Correct.

20 Q. So, they can't comply with the RPS, unless they have
21 the RECs associated with megawatt-hours, is that
22 correct?

23 A. They could either do that, or make Alternative
24 Compliance Payments.

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[WITNESS: Mullen]

1 MS. HATFIELD: Thank you, Mr. Chairman.
2 I have nothing further.

3 CHAIRMAN GETZ: Thank you. Mr. Shulock?

4 MR. SHULOCK: No questions.

5 CHAIRMAN GETZ: Ms. Ross?

6 MS. ROSS: No questions.

7 CHAIRMAN GETZ: Mr. Bersak?

8 MR. BERSAK: I do have some questions,
9 Mr. Chairman. Good morning.

10 WITNESS MULLEN: Good morning.

11 BY MR. BERSAK:

12 Q. Mr. Mullen, you are familiar with PSNH's rates, is that
13 correct?

14 A. Yes, I am.

15 Q. Are all of PSNH's existing IPP costs recovered via the
16 energy service rate today?

17 A. No. Only the market portion.

18 Q. Where are the above-market portions of those costs
19 recovered?

20 A. Through the Stranded Cost Recovery Charge.

21 Q. And, the Stranded Cost Recovery Charge is a
22 nonbypassable charge?

23 A. Correct.

24 Q. Paid for by all of the delivery customers of Public

1 Service?

2 A. Yes, that's true.

3 Q. Now, I think we've established that you don't seem to
4 support the ratemaking methodology that was included in
5 the Petition, is that correct?

6 A. Yes.

7 Q. But we don't know whether you support Mr. Hall's
8 alternative ratemaking methodology. Can you tell us
9 where you stand on that?

10 A. I find it preferable to what was proposed in the Joint
11 Petition.

12 Q. But you discussed the need for a "distinct charge", is
13 that correct?

14 A. I stated that, as Mr. Hall put forth in his
15 supplemental testimony, I read "distinct" to mean a
16 separate charge, and that would be my preference, if
17 such a charge were to be implemented.

18 Q. If you're familiar with PSNH's rates, then you're
19 familiar with the fact that PSNH has issued Rate
20 Reduction Bonds, is that correct?

21 A. Yes.

22 Q. And, that the Rate Reduction Bonds are so-called
23 "securitization" of RRB property rights, is that
24 correct?

[WITNESS: Mullen]

1 A. Yes.

2 Q. And, the collection of the amount that's been
3 securitized has been protected by state law under RSA
4 Chapter 369-B, which you just referred to, through the
5 issuance of an RRB charge, is that correct?

6 A. That's correct.

7 Q. And, under the statute, isn't it correct that the RRB
8 charge is a set per kilowatt-hour charge established by
9 the Commission?

10 A. Yes.

11 Q. And, by statute, isn't the RRB charge a distinct charge
12 to protect the investment in the Rate Reduction Bonds
13 issued by the Company?

14 A. Yes, it is.

15 Q. Is the RRB charge set separately on PSNH's bills?

16 A. No, it is not.

17 MR. BERSAK: Thank you. I have nothing
18 further, Mr. Chairman.

19 CHAIRMAN GETZ: Thank you. Commissioner
20 Ellsworth?

21 CMSR. ELLSWORTH: I have none.

22 CHAIRMAN GETZ: And, I have no
23 additional questions. So, is there any redirect,
24 Mr. Damon?

[WITNESS: Mullen]

1 MR. DAMON: Could I just have one
2 moment?

3 (Atty. Damon and Atty. Amidon conferring
4 with the witness.)

5 CHAIRMAN GETZ: Mr. Damon?

6 MR. DAMON: No questions.

7 CHAIRMAN GETZ: Okay. Then, the witness
8 is excused. Thank you, Mr. Mullen.

9 WITNESS MULLEN: Thank you.

10 CHAIRMAN GETZ: Okay. Let's turn to the
11 admission of exhibits. Are there any objection to
12 striking the identifications and admitting the exhibits
13 into evidence?

14 MS. HATFIELD: Yes. Thank you, Mr.
15 Chairman. I do object. And, I don't have the number in
16 front of me.

17 CHAIRMAN GETZ: Nineteen.

18 MS. HATFIELD: Nineteen, thank you. I
19 think we have testimony from Mr. Frantz and Mr. Mullen
20 that they reviewed or they saw this type of information.
21 But I don't believe that either of those witnesses can
22 verify the tonnage numbers. And, we also had testimony
23 from Commissioner Bald that is of a similar nature. And,
24 I think he also testified today that the information

1 "appears to be accurate", but that he can't say whether
2 those tonnages exactly are correct.

3 And, more generally, as I stated
4 yesterday, I don't believe that it comports with due
5 process requirements to allow a party to put in what
6 really should be testimony through a data response that is
7 not sponsored by a witness, and therefore is not sponsored
8 by a witness who is available for cross-examination by the
9 parties.

10 CHAIRMAN GETZ: Any response?

11 Mr. Damon.

12 MR. DAMON: The rules of procedure do
13 not limit the evidence to be admitted to non-hearsay
14 sources. Hearsay is admissible in the discretion of the
15 Commission. I believe that the testimony of Commissioner
16 Bald this morning, combined with the testimony of Mr.
17 Mullen today, and perhaps as well Mr. Frantz yesterday,
18 gives sufficient indications of reliability to the data in
19 that response, that it would be within the Commission's
20 sound discretion to admit that into evidence. Just as it
21 would any other information, subject, of course, to the
22 Commission's view of its weight. Yes, it's true that the
23 Wood IPPs did not have a witness here on the stand to
24 state that it's true and correct. But there is enough

1 evidentiary basis, I believe, in the record to allow this
2 exhibit to be admitted into evidence.

3 CHAIRMAN GETZ: Anything else? Ms.
4 Hatfield?

5 MS. HATFIELD: Mr. Chairman, I believe
6 we do have testimony today from Commissioner Bald that he
7 believes that "a majority of the wood that's utilized by
8 the IPPs is from within New Hampshire." Which I think is
9 supportive of the numbers. But my concern really is with
10 admitting data, factual data, that can't be substantiated.
11 Thank you.

12 CHAIRMAN GETZ: Thank you.

13 (Chairman Getz and Commissioner
14 Ellsworth conferring.)

15 CHAIRMAN GETZ: All right. With respect
16 to Exhibit 19, we're going to admit it into evidence.
17 And, recognizing that there was no witness here subject to
18 cross-examination or that no particular witness was
19 identified on the data response, there are questions of --
20 legitimate questions of what weight should be given to
21 that. I think, for the completeness of the record, it
22 makes sense to have this as a piece of evidence, given
23 that there was testimony of others, including Commissioner
24 Bald and Mr. Frantz, about the general reasonableness of

1 those numbers. So, we're going to admit it, but recognize
2 that there was no witness supporting it, and that it
3 raises general questions of the appropriate weight. And,
4 we will give it the appropriate rate -- weight during our
5 deliberations.

6 And, I take it there are no other
7 objections to any of the other exhibits being admitted?

8 MR. SHULOCK: There are no objections.
9 But I just wanted to make clear that Exhibit 3 was
10 submitted as a confidential exhibit. That's the
11 confidential portions of the PPA term sheets.

12 CHAIRMAN GETZ: Okay. And, that is
13 marked as "confidential".

14 MR. SHULOCK: It is.

15 CHAIRMAN GETZ: So, it will be treated
16 in confidence. So, then, we will admit all of the
17 exhibits into evidence.

18 Any other procedural issues, other than
19 the one I guess that was raised yesterday about filing
20 closing statements in writing? But there was no
21 discussion yesterday about what the deadline would be. Do
22 the parties -- well, two things. Are there any other
23 issues? And, with respect to the deadline for the written
24 closings, is there a recommendation?

1 MS. ROSS: I think Staff Advocates would
2 press for the earliest possible date, in order to allow
3 the Commission to make an expedited decision, if possible,
4 on the proceeding. So, we haven't gotten agreement from
5 the parties, but we would recommend Monday as a deadline,
6 and parties can either support that or oppose it.

7 CHAIRMAN GETZ: Any objection to close
8 of business on Monday for the written closings?

9 (No verbal response)

10 CHAIRMAN GETZ: Okay. Then, Monday it
11 is. Anything else that we need to address this morning?
12 Ms. Hatfield.

13 MS. HATFIELD: Thank you, Mr. Chairman.
14 I would respectfully suggest that the Commission direct us
15 to perhaps limit our closings to five pages.

16 CHAIRMAN GETZ: Is there any objection
17 to a five-page limit?

18 (No verbal response)

19 CHAIRMAN GETZ: Double space, normal
20 margins.

21 MR. BERSAK: And in English.

22 CHAIRMAN GETZ: Okay. All right.
23 Anything further? Did you have something, Mr. Damon?

24 MR. DAMON: No.

1 CHAIRMAN GETZ: All right. Then,
2 five-page written closing statements due Monday. And,
3 with that, we'll close the hearing and take the matter
4 under advisement. Thank you, everyone.

5 MR. BERSAK: Thank you.

6 **(Whereupon the hearing ended at 11:08**
7 **a.m.)**