

DE 14-238 Staff Brief

As ordered by the Commission, Staff herein provides its viewpoints regarding various provisions of the HB 1602 legislation, and allied New Hampshire statutes, as relating to the scope of the proceeding at hand. Specifically, Staff will address: (1) “generation assets”; (2) “economic interests of PSNH’s retail customers”; (3) “stranded costs”; and (4) particular rights granted to parties to the Settlement Agreement approved by the Commission in Docket No. DE 99-099 (referred to as the “1999 Settlement Agreement” hereafter).

Generation Assets

HB 1602 refers to PSNH’s “remaining generation assets” and “generation assets” in a generic way, without a specific definition. However, HB 1602 does incorporate the Electric Utility Restructuring statutory scheme of RSA Chapter 374-F by reference. In previous completed electric utility restructuring proceedings, for what are now the Unitil and Liberty franchise territories, power purchase agreements were considered “generation assets” within the ambit of the Chapter 374-F restructuring effort. *See, e.g., Unitil Service Corporation*, Order No. 23,507 (June 12, 2000); *see also Granite State Electric Company*, Order No. 23,041 (October 7, 1998). Therefore, Staff considers all of PSNH’s power purchase agreements, including its agreement with the Burgess plant entity, to be “generation assets” subject to the review of the Commission in this proceeding. Staff also views all of PSNH’s physical generation assets, owned in whole or in part by PSNH, to be within the scope of this proceeding, including physical assets that are involved in distribution service support (such as PSNH’s jet turbines). (Staff is aware of the 1999 Settlement Agreement’s treatment of the White Lake Combustion Turbine Plant pursuant to RSA 374-F:3, III, *see* 1999 Settlement Agreement at page 37; however, Staff

believes that all PSNH generation assets should be included within the analyses presented to the Commission, in the interests of completeness and up-to-date information).

Economic Interests of PSNH's Retail Customers

HB 1602 states, “[n]otwithstanding RSA 374:30, the commission may order PSNH to divest all or some of its generation assets if the commission finds that it is in the economic interest of retail customers of PSNH to do so, and provides for the cost recovery of such divestiture.” RSA 369-B:3-a, I (emphasis added). HB 1602’s statement of purpose states, “The purpose of allowing the public utilities commission to determine if the divestiture of [PSNH’s] remaining generation assets is in the economic interests of PSNH’s retail customers should be to maximize economic value for PSNH’s retail customers, minimize risk to PSNH’s retail customers, reduce stranded costs for PSNH’s retail customers, promote the settlement of outstanding issues involving stranded costs, and, if appropriate, provide for the continuation or possible repowering of PSNH’s generation assets.” Staff views this expansive statement of purpose, as paired with the Restructuring Policy Principles of RSA 374-F:3 and RSA Chapter 374-F generally, to require the Commission to take a broad view of what constitutes the grouping of “PSNH’s retail customers.” In Staff’s opinion, this grouping includes both PSNH supply and PSNH distribution service customers, as both classes of customers are addressed in RSA Chapter 374-F. Collectively, these retail customers are referred to as “retail” or “end-use” customers. PSNH’s ability to provide reliable, economic service to its end-use customers after any disposition of its generation assets should be a matter for consideration by the Commission.

Staff believes that the proper framework for the consideration of the economic interests of PSNH’s retail customers is a focus on the price of the power provided by PSNH before and after any disposition of its generation assets. Specifically, Staff expects the price of PSNH

default service supply going forward to be the linchpin of any economic interest analysis. Staff has developed a conceptual approach to examining the matter of prices charged to default service customers. For default service customers, a comparison should be made between expected future Energy Service prices for the 2015-2025 period if the status quo is maintained, and the expected future prices for the same analysis period if generation assets were divested (in whole or in part). To inform the status quo projections, reliance should be made on PSNH's cost of service study data points. For the projected prices for post-divestiture scenarios, Staff suggests that the parties agree upon a single existing data set based on robust analysis, such as the avoided cost of energy projections presented by NEEP in the context of energy efficiency analyses for our region. Staff also believes that "spillover" rate effects, for both stranded-cost and non-stranded cost factors, for PSNH distribution service customers should also be considered as part of this proceeding.

Stranded Costs

Staff believes that PSNH has a clearly established right to stranded cost recovery within the context of this proceeding under the provisions of HB 1602 and allied statutes. Specifically, the Commission has been granted the power to order divestiture of all or some of its generation assets if the Commission "provides for the cost recovery of such divestiture." RSA 369-B:3-a, I. RSA Chapter 374-F, including the RSA 374-F:2 provisions relating to stranded costs revised by HB 1602, clearly grants PSNH a right to recover stranded costs incurred as a consequence of decisions issued by the Commission in this proceeding. Staff views stranded costs to be an important factor for consideration of impacts on PSNH retail, end-use customers, as Staff expects that such costs would be recovered pursuant to the terms of RSA 374-F:3, XII, which calls for recovery of stranded costs "through a nonbypassable, nondiscriminatory, appropriately

structured charge that is fair to all customer classes....” RSA 374-F:3, XII (d). In Staff’s view, the stranded cost-recovery mechanism that best meets these criteria is a charge assessed on all PSNH end-use customers.

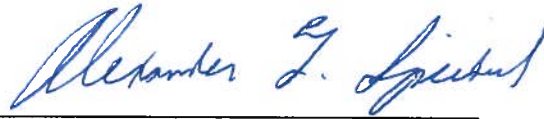
Also, Staff expects that stranded costs subject to recovery could include certain legacy environmental costs that have not been discussed in great detail up to this point. Staff is concerned that PSNH physical assets such as Schiller Station (formerly a mercury boiler installation) may have legacy environmental contamination requiring remediation, which should be considered by the Commission as part of the stranded cost analyses called for in this proceeding. These costs should be quantified as soon as possible through environmental studies of PSNH’s generation sites, as the potential impact of such stranded costs could be very significant on PSNH end-use customers going forward.

If the Commission were to disallow recovery of stranded costs by PSNH within the context of this proceeding, Staff is concerned such disallowance could lead to serious issues relating to PSNH’s ongoing ability to provide supply and distribution services to its end-use customers. Therefore, the matter of stranded costs should be considered holistically by the Commission with a view towards maintaining PSNH’s enterprise-level viability.

Particular Rights Granted to Parties to 1999 Settlement Agreement

As a general matter, Staff considers all of the particular rights and obligations placed on specific parties to the 1999 Settlement Agreement, including the employee protections incorporated by HB 1602 at RSA 369-B:3-b, and delineated in Section X of the 1999 Settlement Agreement as defined in RSA 369-B:2, VIII, to still be in place through this proceeding. This general rule of applicability would only be suspended in instances of legal impossibility, which should be explored within the scope of this proceeding.

Respectfully submitted:



Alexander F. Speidel, Esq.
Staff Attorney
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301
(603) 271-6016

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically served a copy of this filing upon each party on the official Service List compiled by the Secretary in this proceeding.

Dated at Concord, New Hampshire, this ^{5th} day of December, 2015.



Alexander F. Speidel, Esq.