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STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

February 5, 2009 - 10:11 a.m.
Concord, New Hampshire

[REDACTED - for public use]

RE: DE 08-077
PUBLIC SERVICE OF NEW HAMPSHIRE:
Petition for Approval of a Power
Purchase Agreement and Renewable
Energy Certificate Option Agreement
with Lempster Wind.

NH PUC SEP10'09 PM 4:59

PRESENT: Chairman Thomas B. Getz, Presiding
Commissioner Graham J. Morrison
Commissioner Clifton C. Below

Diane Bateman, Clerk

APPEARANCES: Reptg. Public Service of New Hampshire:
Gerald M. Eaton, Esq.

Reptg. Freedom Partners, L.L.C.:
James T. Rodier, Esq.

Reptg. Lempster Wind, L.L.C.:
Susan S. Geiger, Esq. (Orr & Reno)

Reptg. Residential Ratepayers:
Meredith Hatfield, Esq., Consumer Advocate
Kenneth E. Traum, Assistant Consumer Advocate
Office of Consumer Advocate

Reptg. PUC Staff:
Suzanne G. Amidon, Esq.

Court Reporter: Steven E. Patnaude, LCR No. 52

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P R O C E E D I N G S

1
2 CHAIRMAN GETZ: Okay. Good morning,
3 everyone. We'll open the hearing in docket DE 08-077. On
4 May 29, 2008, Public Service Company of New Hampshire
5 filed a petition for approval of a Power Purchase
6 Agreement and Renewable Energy Certificate Option
7 Agreement between PSNH and Lempster Wind, LLC. An order
8 of notice was issued on June 5 setting a prehearing
9 conference that was held on June 27. A secretarial letter
10 was issued on July 8 approving a procedural schedule,
11 which initially called for a hearing in December, that
12 hearing date was rescheduled to today.

13 And, let's take appearances at this
14 time.

15 MR. EATON: For Public Service Company
16 of New Hampshire, my name is Gerald M. Eaton. Good
17 morning.

18 CMSR. BELOW: Good morning.

19 CMSR. MORRISON: Good morning.

20 CHAIRMAN GETZ: Good morning.

21 MR. RODIER: Good morning, Mr. Chairman.
22 Jim Rodier, from Freedom Partners.

23 CHAIRMAN GETZ: Good morning.

24 CMSR. MORRISON: Good morning.

1 CMSR. BELOW: Good morning.

2 MR. RODIER: Thank you.

3 MS. GEIGER: Good morning, Mr. Chairman
4 and Commissioners Below and Morrison. Susan Geiger, from
5 the law firm of Orr & Reno. As the Commission may
6 recollect, I filed a limited appearance earlier in this
7 proceeding, and appear this morning to simply monitor the
8 proceeding.

9 CMSR. MORRISON: Good morning.

10 CHAIRMAN GETZ: Good morning.

11 CMSR. BELOW: Good morning.

12 MS. HATFIELD: Good morning,
13 Commissioners. Meredith Hatfield, for the Office of
14 Consumer Advocate, on behalf of residential ratepayers,
15 and with me is Ken Traum.

16 CHAIRMAN GETZ: Good morning.

17 CMSR. MORRISON: Good morning.

18 CMSR. BELOW: Good morning.

19 MS. AMIDON: Good morning. Suzanne
20 Amidon, for Commission Staff. And, with me today is Steve
21 Mullen, who is the Assistant Director of the Electric
22 Division.

23 CHAIRMAN GETZ: Good morning.

24 CMSR. MORRISON: Good morning.

1 CMSR. BELOW: Good morning.

2 CHAIRMAN GETZ: Any issues that we need
3 to address before we -- I presume the first thing would be
4 hearing from the Company's witnesses. So, is there
5 anything else?

6 (No verbal response)

7 CHAIRMAN GETZ: All right. Then, Mr.
8 Eaton.

9 MR. EATON: Mr. Chairman, before the
10 witness gets on the stand, we have proposed to mark the
11 redacted versions of the documents that were filed in this
12 case: Mr. Wicker's testimony; the redacted Power Purchase
13 Agreement; and the redacted Renewable Energy Certificate
14 Option Agreement, so that the record can be a public
15 record. The Commission has the unredacted versions of
16 those documents. And, I want to raise that now, in case
17 the parties have any objection to proceeding in that way.

18 CHAIRMAN GETZ: Any objections?

19 (No verbal response)

20 CHAIRMAN GETZ: Hearing nothing, then
21 let's proceed.

22 MR. EATON: I'd like to call Sheldon B.
23 Wicker, Jr. to the stand please. Also, as a preliminary
24 matter, we had filed rebuttal testimony from Mr. Hall.

[WITNESS: Wicker]

1 But, due to the fact that Constellation has withdrawn its
2 appearance in this case, we will not be offering Mr. Hall
3 as a witness and will not offer his rebuttal testimony in
4 the record.

5 (Whereupon Sheldon B. Wicker, Jr. was
6 duly sworn and cautioned by the Court
7 Reporter.)

8 **SHELDON B. WICKER, JR., SWORN**

9 **DIRECT EXAMINATION**

10 BY MR. EATON:

11 Q. Could you please state your name for the record.

12 A. Yes. Sheldon B. Wicker, Jr., with Public Service
13 Company, also known as "Tod Wicker".

14 Q. Mr. Wicker, what is your position with Public Service
15 Company and what are your duties?

16 A. Presently, I'm a Principal Engineer. Up until June of
17 2007, I was the Manager of Supplemental Energy
18 Services, which deals with all issues relating to small
19 power producers.

20 Q. Have you testified before this Commission?

21 A. Yes, I have testified numerous times before the
22 Commission.

23 Q. Were you involved with the negotiation of the documents
24 that are presented here today?

{DE 08-077} [REDACTED - For public use] {02-05-09}

[WITNESS: Wicker]

1 A. Yes, I was, from the very beginning.

2 Q. Mr. Wicker, could you please place in front of you a
3 document that's titled "Direct Testimony of S. B.
4 Wicker", dated May 28th, 2008.

5 A. I have that document.

6 Q. Do you recognize that?

7 A. Yes, I do.

8 Q. Is it true and accurate to the best of your knowledge
9 and belief?

10 A. Yes, it is. Although, we will be making some updates
11 to it, due to the time that has passed since it was
12 filed.

13 MR. EATON: Could we have that marked as
14 "Exhibit 1" for identification?

15 CHAIRMAN GETZ: It will be so marked.

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

19 BY MR. EATON:

20 Q. Mr. Wicker, now I'd like you to look at a document that
21 has the note at the top of it "SBW-1". Do you
22 recognize that?

23 A. Yes, I do.

24 Q. And, what is that document?

[WITNESS: Wicker]

1 A. That document is a "Power Purchase Agreement for
2 Lempster Mountain Wind Power Project". And, basically,
3 that document covers the terms and conditions relating
4 to the purchase of energy capacity and New Hampshire
5 RECs from the projects -- from the project, by Public
6 Service from the project.

7 Q. And, is the Company asking the Commission to approve
8 this agreement?

9 A. Yes, it is. If I may just add, are you talking about
10 the redacted version or the non-redacted version? I
11 think only the, I believe if I'm correct, that the
12 redacted version was the SBW-1.

13 Q. But the terms of the Power Purchase Agreement for
14 Lempster Mountain Wind Power with the actual prices in
15 it is the unredacted one that the Commission has in its
16 files, is PSNH requesting approval of that?

17 A. Yes, we are.

18 MR. EATON: Could we have this marked as
19 "Exhibit 2" for identification?

20 CHAIRMAN GETZ: So marked.

21 (The document, as described, was
22 herewith marked as **Exhibit 2** for
23 identification.)

24 BY MR. EATON:

{DE 08-077} [REDACTED - For public use] {02-05-09}

[WITNESS: Wicker]

1 Q. Could you look at the document entitled "SBW" or marked
2 with the acronym "SBW-2". Do you recognize --

3 A. I have it.

4 Q. Do you recognize that?

5 A. That's the "Renewable Energy Certificate Option
6 Agreement".

7 Q. And, what does this cover?

8 A. Basically, this covers the terms and conditions by
9 which the project can repurchase certain RECs over the
10 term of the contract.

11 Q. And, in this proceeding, is the Company requesting the
12 Commission to approve the unredacted agreement that was
13 filed under a Motion for Protective Order?

14 A. Yes, we are.

15 MR. EATON: Could we have that document
16 marked as "SBW" -- I'm sorry, as "Exhibit 3" for
17 identification?

18 CHAIRMAN GETZ: Be so marked.
19 (The document, as described, was
20 herewith marked as Exhibit 3 for
21 identification.)

22 BY MR. EATON:

23 Q. Could you please look at SBW-4. I'm sorry, SBW-3.

24 A. I have that document.

{DE 08-077} [REDACTED - For public use] {02-05-09}

[WITNESS: Wicker]

1 Q. And, what is that document?

2 A. That document is a copy of the "Interconnection
3 Agreement for the Lempster Wind Project".

4 Q. And, did you request permission or did the Company
5 request permission or approval of this agreement or is
6 the Company merely filing it for identification in this
7 proceeding?

8 A. Interconnection agreements are not normally approved by
9 the Commission. We are not necessarily asking for that
10 approval. They are filed with the Commission for
11 records.

12 Q. And, is there an attachment to that Interconnection
13 Agreement?

14 A. Yes, I believe there are two of them. One is the
15 "Public Service Interconnection Report for Customer
16 Generation", and also the "ISO-New England System
17 Impact Study" is copied separately, but is an
18 attachment to that document.

19 MR. EATON: Mr. Chairman, could we have
20 the Interconnection Agreement and the two attachments
21 marked as "Exhibit 4" for identification?

22 CHAIRMAN GETZ: Be so marked.

23 (The document, as described, was
24 herewith marked as **Exhibit 4** for

[WITNESS: Wicker]

1 identification.)

2 BY MR. EATON:

3 Q. Could you look at SBW-4 please, Mr. Wicker.

4 A. Yes, I have that document.

5 Q. Please describe that.

6 A. That document is the "Agreement for the Joint Use of
7 Pole Structures Between Public Service Company of New
8 Hampshire and the New Hampshire Electric Cooperative".

9 Q. Is the Company requesting approval of this agreement?

10 A. No, we are not. Joint use agreements are usually not
11 approved by the Commission. They're usually just filed
12 for information purposes.

13 Q. And, why is this agreement relevant to the Lempster
14 Project?

15 A. Because the interconnection between the Project and
16 Public Service has been the joint effort of the New
17 Hampshire Electric Cooperative and Public Service
18 Company, and covers both the service territory of
19 Public Service and the Cooperative, it is necessary to
20 have a joint use agreement to outline the operation and
21 maintenance of those facilities.

22 MR. EATON: Could I ask that the
23 document "SBW-4" be marked as "Exhibit 5" for
24 identification.

[WITNESS: Wicker]

1 CHAIRMAN GETZ: It's so marked.
2 (The document, as described, was
3 herewith marked as **Exhibit 5** for
4 identification.)

5 BY MR. EATON:

6 Q. Mr. Wicker, along those lines, for the record could you
7 explain how this Project, as long as we're on this
8 Joint Use Agreement, how this project is actually
9 electrically interconnected to the PSNH system and
10 where the Co-op is involved?

11 A. Yes, I can. Basically, the connection between the
12 Project and Public Service is along Route 10 from the
13 project, approximately 10.5 miles, to the Newport
14 Substation of Public Service. Since Public Service
15 only feeds or supplies customers in Newport and Goshen,
16 and the Co-op supplies them in Lempster, we have
17 basically rebuilt that line with a dedicated 34 kV line
18 on top, which runs directly from the Project to
19 Newport. We are then rebuilding -- moving the existing
20 distribution circuits to the new pole line, and they
21 will continue to serve as a second circuit on that new
22 pole line. So, we have a dedicated line on top
23 directly from the Project to the substation in Newport,
24 and the distribution lines underneath in Lempster, that

{DE 08-077} [REDACTED - For public use] {02-05-09}

[WITNESS: Wicker]

1 means they're the distribution lines of the
2 Cooperative, and in Goshen and Newport they're the
3 distribution lines of Public Service Company.

4 Q. And, who paid for these improvements to the
5 distribution system?

6 A. The Project, the Lempster Wind Project paid for the
7 entire cost.

8 Q. Mr. Wicker, on August 15th, 2008, PSNH filed a Petition
9 for Approval of Power Purchase Agreement and Renewable
10 Energy Certificate Option Agreement between PSNH and
11 Lempster Wind. Are you aware of that filing?

12 A. Yes, I am.

13 Q. Is the Company requesting approval of that now?

14 A. No, the Company is not requesting approval of that.
15 That's a project that's under an agreement we have with
16 the Co-op under FERC. We are filing for information
17 only.

18 MR. EATON: Could we have that marked as
19 "Exhibit 5" for identification.

20 CHAIRMAN GETZ: I think we're up to
21 "Exhibit 6".

22 MS. BATEMAN: Six.

23 MR. EATON: "Exhibit 6".

24 CHAIRMAN GETZ: So marked.

[WITNESS: Wicker]

1 (The document, as described, was
2 herewith marked as **Exhibit 6** for
3 identification.)

4 BY MR. EATON:

5 Q. Mr. Wicker, could you briefly summarize your testimony.
6 And, then we can go through the changes that you
7 discussed earlier.

8 A. Yes. Basically, my testimony supports our request for
9 the approval of the two agreements between Public
10 Service Company and the Lempster Project, in order that
11 Public Service may buy energy and capacity and RECs
12 from the Project over a term of 15 years. We also are
13 requesting -- are also notifying the Commission that we
14 intend to resell 10 percent of the output of the
15 Project that we buy to the Cooperative, to the New
16 Hampshire Electric Cooperative, as part of our
17 cooperative effort to develop the interconnection and
18 the Project, that being the Lempster Wind Project.

19 Q. And, could you update your testimony for things that
20 have changed since it was originally filed.

21 A. Yes, I can. One of the things in my testimony, we
22 stated we were going to file this Power Purchase
23 Agreement, and, obviously, we did file it in August.
24 In my original testimony, it was called the "Lempster

[WITNESS: Wicker]

1 Resale Agreement". The actual title of the agreement
2 is now the "Power Purchase Agreement between the New
3 Hampshire Electric Co-op and Public Service Company".
4 We also stated -- or, we also, when we did the final
5 agreement with the New Hampshire Electric Co-op, we
6 found it to be administratively efficient --
7 administratively more efficient to financially settle
8 with the Co-op the energy and capacity values, rather
9 than actually pass those values onto the Co-op and then
10 have them use them for their own load. So that the
11 wording in the document, in Exhibit Number 6, basically
12 describes how we will do that financial settlement.
13 And, we have been doing that for the first four months
14 of the Project's existence.

15 The other updates are more obvious ones.
16 That the Project was completed on October 21st;
17 generated its first power on that day. The Project
18 went commercial on November 10th. The Project was
19 accepted into ISO for capacity purposes on
20 December 1st. The interconnection, in order to support
21 the Project, was completed on December -- on September,
22 I'm sorry, September 28th. And, that interconnection
23 is what we're calling that dedicated circuit directly
24 from the Project to the Newport Substation. We are

[WITNESS: Wicker]

1 still in the process of moving over some of the
2 distribution circuits underneath the previous line,
3 since we had to rebuild the whole line. So, they're in
4 the process of doing that. They're also in the process
5 of moving the telephone cables over to the new poles.
6 However, due to the December ice storm, and continuing
7 clean-ups of that, they have not been working on that
8 work for the last which would now be two months.
9 Though, we do expect that early this spring they will
10 complete all the work related to rebuilding that,
11 rebuilding that distribution line.

12 Q. The financial settlement is carried out where?

13 A. Excuse me. Basically, what we are doing is we're
14 determining the value to the New Hampshire Electric
15 Co-op of the, for instance, the energy, 10 percent of
16 the energy that they're purchasing. And, rather than
17 transferring through the ISO system that actual amount
18 of kilowatt-hours, we are actually just passing onto
19 them and crediting them with the dollar value of that,
20 of that energy purchase. So, that their -- basically,
21 the invoice we send to the Co-op, as a 10 percent -- as
22 a 10 percent participant in the Project, includes a
23 credit for the energy, a credit for the capacity. The
24 RECs, they're paying directly for the RECs. The RECs

[WITNESS: Wicker]

1 are not financially settled. And, when I say a
2 "credit", that would mean that, if there is a savings,
3 they get the credit. If it's a cost, they pay the
4 cost.

5 Q. PSNH has been purchasing the power since the Project
6 began?

7 A. That's correct. The initial -- The first purchase was
8 made on October 21st, when they started generating
9 around noontime. And, we have issued them invoices for
10 October, November, December, and January. And, we have
11 also billed the New Hampshire Electric Co-op for their
12 share for October, November, December, and January.

13 Q. And, has PSNH purchased RECs from the Project?

14 A. Yes, we purchase RECs as they are generated on a
15 monthly basis.

16 Q. In a separate proceeding, PSNH requested permission to
17 serve a single customer in Lempster. Are you aware of
18 that request?

19 A. Yes, I am.

20 Q. And, why was that necessary?

21 A. The Lempster Wind Project, when the wind is not blowing
22 and the turbines are not spinning, takes in a small
23 amount of energy in order to run their electronics,
24 and, during the wintertime, heat some components in

[WITNESS: Wicker]

1 each turbine. When the Project is running, they supply
2 their own power to do this. That means they're a
3 customer of Public Service during those periods of
4 time, and they're also a producer of power to Public
5 Service during certain periods of time. That request
6 was made so that we could basically serve them as a
7 customer.

8 Separately, the facilities not related
9 to generation, in other words, maintenance, lighting,
10 and things like that, on the site, are served by the
11 New Hampshire Electric Co-op as a retail customer of
12 theirs in their own service territory.

13 Q. And, this facility is located in whose service
14 territory?

15 A. In the service territory of the New Hampshire Electric
16 Co-op.

17 Q. Do you have anything to add to your testimony,
18 Mr. Wicker?

19 A. No, I don't.

20 MR. EATON: Thank you. The witness is
21 available for cross-examination.

22 CHAIRMAN GETZ: Mr. Rodier.

23 MR. RODIER: Thank you, Mr. Chairman.

24 **CROSS-EXAMINATION**

[WITNESS: Wicker]

1 BY MR. RODIER:

2 Q. Mr. Wicker, with regard to your exchange with Attorney
3 Eaton, where he asked you questions about the plant
4 coming into service I guess you said on -- you started
5 testing on October 21st, it went into commercial
6 operation November 10, I want to ask you how is the
7 purchase of this energy from Lempster being accounted
8 for?

9 A. My understanding is that we accounted for, assuming the
10 agreement is approved, the agreements are approved by
11 the Commission, for -- to supply energy service to our
12 customers.

13 Q. Well, you're in here looking for approval, are you not,
14 of these agreements?

15 A. That's correct.

16 Q. So, prior to the Commission's approval, for the month
17 of January 2009, how is this being booked?

18 A. It's being booked for our customers, subject to
19 adjustment if --

20 Q. Okay.

21 A. -- if it's not approved.

22 Q. So, for ratemaking -- I'm sorry.

23 A. If it's not approved, then we will then reverse those.

24 Q. Okay.

[WITNESS: Wicker]

1 A. And, we will keep the -- we will continue to buy from
2 the Project, and basically consider this to be for the
3 bottom line of Public Service, and not for our
4 customers.

5 Q. So, for the time being, though, it is being booked as
6 if it's been approved?

7 A. Yes. That's my understanding.

8 Q. Okay. And, did you say, if it's not approved, you're
9 going to take it below the line?

10 A. We have no choice. We cannot use it for our customers,
11 because if it would not be approved by the Commission.
12 That's my understanding.

13 Q. Okay. So, your answer is "yes" then, it would be
14 taken, so to speak, "below the line"?

15 A. That's correct.

16 Q. Would not be used for the benefit of ratepayers?

17 A. That's correct.

18 Q. And, you feel that, as a public utility, that you have
19 the authority to enter into a project and to just take
20 it below the line?

21 A. That's my understanding.

22 Q. Okay. So, I guess the contract is currently effective.
23 You have a bound -- you are obligated to a contract
24 with Lempster, whether or not the Commission approves

[WITNESS: Wicker]

1 it?

2 A. That's correct.

3 Q. Okay. Now, looking at Page 1 of your testimony, which
4 I think was marked as "Exhibit 1". And, it looks like,
5 down around Lines 25 through 31, you quote the
6 applicable law here, 362-F:9, is that correct?

7 A. That's correct.

8 Q. So, to roughly paraphrase, that says "the Commission
9 may authorize", let's say "PSNH, "the Commission may
10 authorize PSNH to enter into a multi-year purchase
11 agreement with renewable energy sources for
12 certificates, in conjunction with or independent of a
13 power purchase agreement from such sources, to meet
14 reasonably projected renewable portfolio requirements."

15 So, to just break that down a little
16 bit, this is an agreement that is where the RECs and
17 the power are not the electric commodity, they're not
18 -- it's in conjunction with each other, they're not
19 separate agreements?

20 A. That's correct.

21 Q. Okay. So, you have a "multi-year purchase agreement
22 with a renewable energy source for certificates to meet
23 your reasonably projected renewable portfolio
24 requirements." What does that mean to you, "to meet

[WITNESS: Wicker]

1 reasonably projected renewable portfolio requirements"?

2 A. The law specifies the percentage of our load that we
3 have to cover with Renewable Energy Certificates. And,
4 for instance, like the last one, for 2009, it's
5 approximately 43,000 RECs, approximately. We made a
6 projection of, you know, what our load might do over
7 the next few years, we know what the percentages are.
8 I think that's a reasonable projection of what our REC
9 requirement is.

10 Q. Okay. Your New Hampshire REC requirement is what
11 you're referring to?

12 A. Yes.

13 Q. This "Renewable Portfolio Standard", or whatever we
14 call it?

15 A. We are subject to the New Hampshire Renewable Portfolio
16 Standard.

17 Q. Okay. Well, I agree, that's why you did it. But you
18 may not use these RECs to do that, isn't that correct?

19 A. I'm sorry, which RECs?

20 Q. The Lempster RECs. You're going to sell them
21 out-of-state, if can get more money out-of-state than
22 in-state, isn't that right?

23 A. We will make that determination when those -- when we
24 have to make a settlement of the New Hampshire

[WITNESS: Wicker]

1 portfolio requirements, which would be in July of 2010
2 for Class I, as to what is the best use of those RECs
3 that we may have accumulated.

4 Q. Right. And, would it be fair to say that, to the
5 extent that the RECs are more highly valued in other
6 markets, you're going to sell them outside of New
7 Hampshire?

8 A. I don't think I can say that. Maybe, as a general
9 statement, you'd seek the highest value -- value
10 possible.

11 Q. Shall we look at your data response on this?

12 A. Yes.

13 Q. Okay. I asked you a question "Under what circumstances
14 would PSNH use the RECs in the New Hampshire mandatory
15 compliance market? Under what circumstances would PSNH
16 sell the RECs for use in a mandatory compliance market
17 outside of New Hampshire?" Do you recall that
18 question?

19 A. Just one moment please. Which request was it?

20 Q. Can you guys help me out? It's the first set.

21 A. Oh, in Number 1, yes.

22 Q. Yes. Would you read your answer into the record.

23 A. Yes. "PSNH will maximize customer value of RECs either
24 by using them in the New Hampshire RPS Program or

[WITNESS: Wicker]

1 selling them in other available markets." I believe
2 that's what I just said.

3 Q. Okay.

4 A. In other words, we'll determine whatever the maximum,
5 the best value is of those RECs at the time we have to
6 make that decision, then --

7 Q. Right. Okay. I'll accept that answer. That's what I
8 was trying to get at.

9 A. I meant to say that, if I didn't.

10 Q. So, I guess the way that we leave this is that, if you
11 can get more for these RECs in Maine, Massachusetts,
12 Rhode Island, or Connecticut, or even Vermont now, I
13 guess, or New York, that's what you're going to do with
14 these RECs?

15 A. (Witness nodding affirmatively).

16 Q. And, not use them for your New Hampshire portfolio
17 requirement?

18 A. At this point in time, first of all, this is not my --
19 I mean, I'm not responsible for doing that. But my
20 understanding is we'll try to maximize the value. I
21 mean, and there may be some other considerations, but,
22 basically, this is pretty much an economic thing.
23 These are fungible commodities.

24 Q. Right. So, I guess what you're saying is, Public

[WITNESS: Wicker]

1 Service isn't obligated or committed in any way to use
2 them to meet the New Hampshire portfolio requirement?

3 A. I believe we aren't.

4 Q. And, Lempster could buy them back, too, isn't that
5 right?

6 A. Lempster has an option to repurchase certain amounts at
7 different periods of time during the term of the
8 contract.

9 Q. Okay. Moving along. Now, you mentioned that the 10
10 miles of 34 kV that was built to get from the site of
11 the Lempster Project to the delivery point, that was
12 all paid for by Lempster, correct?

13 A. That's correct.

14 Q. Now, how about the upstream transmission costs,
15 upstream from the delivery point to the NEPOOL PTF?

16 A. There were no costs. NEPOOL, in studying the Project,
17 determined that there were no transmission upgrades
18 required.

19 Q. Yes, I'm talking -- okay, I'm very sorry. I didn't
20 mean to interrupt you. Go ahead.

21 A. Yes. Well, let me just clarify that. There were two
22 protection schemes. There was a protection scheme that
23 had to be put into the North Road Substation that was
24 paid for by the Lempster Project. I don't think you,

[WITNESS: Wicker]

1 technically, you probably can't consider that
2 transmission that was put in there to protect the
3 Project. So, if you want to call that a "transmission
4 upgrade" or "protection scheme", you can. But it was
5 paid for by the Project.

6 Q. Okay. Well, that's helpful. But I'm really asking as
7 to whether or not this output has to be transmitted
8 under one of your open access tariffs to the NEPOOL
9 PTF?

10 A. No. We take delivery of the power in Newport. And, it
11 enters the Public Service system in Newport. Part of
12 it flows back to North Road, part of it goes to the
13 Cooperative, part of it probably goes, at different
14 periods of time, into the transmission system. But
15 that's our system, though.

16 Q. Okay. So, I guess what you're saying is, there's no
17 wheeling, there's no transmission over the -- either
18 your own local transmission facilities or under the
19 regional tariff, is what you're saying?

20 A. No, we take delivery of the power at the site.

21 Q. Right. Right. Okay. Now, do I understand it's the --
22 let's say you take delivery -- at the site? I thought
23 it was at the delivery point?

24 A. That is the site. The delivery point is at the site.

[WITNESS: Wicker]

1 Q. Okay. The intake connection point I guess is 10 miles
2 away?

3 A. Well, yes. To interconnect the Project, --

4 Q. Right.

5 A. -- you take delivery of the power at the site, and move
6 the power over the dedicated line to the Newport
7 Substation.

8 Q. Okay.

9 A. That is the interconnection point.

10 Q. Okay. So, this is helpful. So, the delivery point is
11 at the site. Now, let me ask you, if a thousand
12 megawatt-hours was purchased by PSNH at the site, what
13 is the -- how many megawatt-hours are settled through
14 this load asset account that you're going to be setting
15 up for this?

16 A. A thousand kilowatt -- megawatt-hours? Okay.

17 Q. All right. So, you're taking delivery, and that's the
18 same amount that's going to be cleared through --

19 A. Yes.

20 Q. -- this special load asset account, PSNH is going to be
21 the lead participant, lead owner of, is that correct?

22 A. Well, I guess I wouldn't call it a "special", I mean,
23 it's separate. It's a new -- There is a new LMP at
24 Newport for this project.

[WITNESS: Wicker]

1 Q. Right.

2 A. That's where -- That's where ISO recognizes the energy
3 is being delivered into the ISO system.

4 Q. Okay. And, so, it gets to the LMP at this node that
5 you mentioned, and so it doesn't get the LMP for the
6 New Hampshire zone overall, you're paying the LMP at
7 the node?

8 A. That's correct.

9 Q. You have any relationship between the LMP at the node
10 and the average for the zone? Is it higher or lower?

11 A. Do you mean for New Hampshire, compared to Newport?

12 Q. Yes. I don't want to burden you and your time, but I
13 was just wondering.

14 A. They're very close.

15 Q. They're very close?

16 A. They're very close. They're within percentage points.
17 And, it looks like what we've seen here is that two
18 months they have been higher and two months they have
19 been lower.

20 Q. Okay. Would you be concerned over time if you were
21 paying at a node that had a higher price than what the
22 zonal -- New Hampshire zonal average was?

23 A. No, I don't think we would, because that's where the
24 load is. And, the way ISO, my understanding the way

[WITNESS: Wicker]

1 ISO prices things, is that they price generation and
2 load at any particular node, and the price is what it
3 is.

4 Q. Right.

5 A. Now, if you had congestion and a lot of losses there
6 that made it artificially high, then, yes. But the
7 North Road -- North Road market is basically pretty
8 much the same as the New Hampshire average market.

9 Q. Okay. So, let's leave that. And, thank you. There's
10 a floor price in this deal, correct?

11 A. Yes.

12 Q. You're aware that the LMPs have been -- do you know
13 what they have been lately?

14 A. The new Hampshire -- The North Road LMP for January was
15 about \$66. It was \$59 or something like that for
16 December. Dropped considerably. Had used it, I mean,
17 averaging, over the last 12 months it's been averaging
18 over \$80.

19 Q. Right. What do you think it's going to average over
20 the next 12 months?

21 A. My understanding from some of the markets that are out
22 there today is that you can buy power for 2009 in
23 slightly below \$60; 2010 and '11 it's in the low 60s.

24 Q. You're talking about just energy?

[WITNESS: Wicker]

1 A. Yes. That's my understanding.

2 MR. RODIER: I just have a couple of
3 questions on this. We may not even mark it. May I put
4 this in front of the witness?

5 MR. EATON: I have it.

6 (Atty. Rodier handing document to the
7 witness.)

8 BY MR. RODIER:

9 Q. You may not be familiar with this. And, if you're not,
10 I understand. I'll ask you anyway. This is a -- let
11 me just represent, this is a -- from an ICAP Energy,
12 don't get thrown off by the "ICAP", it has nothing to
13 do with NEPOOL ICAP. This is their quote sheet, this
14 -- I got this yesterday. And, I documented to Mr.
15 Eaton, and I believe that it's showing that these are
16 yesterday's prices.

17 CHAIRMAN GETZ: I'm sorry, from -- I
18 didn't follow your --

19 MR. RODIER: I gave Mr. Eaton some
20 documentation.

21 CHAIRMAN GETZ: But this comes from
22 where?

23 MR. RODIER: ICAP Energy.

24 CHAIRMAN GETZ: Okay.

[WITNESS: Wicker]

1 MR. RODIER: I-C-A-P, E-n-e-r-g-y. And,
2 nobody has to accept this on faith. But, in prior
3 proceedings, I have asked Mr. Labrecque if he uses this,
4 and he said "yes, we have."

5 BY MR. RODIER:

6 Q. But I'm looking at "NEPOOL Flat", forget "NEPOOL
7 On-Peak", forget "NEPOOL Off-Peak". Do you see the
8 column that says "NEPOOL Flat"?

9 A. Yes.

10 Q. And, just run your eye -- well, first of all, these are
11 quotes for just energy. And, --

12 A. Twenty-four hour flat.

13 Q. Yes. That's exactly right. That's what "NEPOOL Flat"
14 means, around the clock for 24 hours, that's right.
15 And, what's your take on these numbers for March
16 through December of '09?

17 A. Could you tell me what the two different columns, is
18 there some --

19 Q. Well, they're the same, so --

20 A. Oh, okay. This is, I mean, this is my area. All I can
21 say is, I mean, I had a conversation with Mr. Labrecque
22 this morning, and he told me basically that he would
23 expect, if you went out and bought power for the year
24 2009, you'd pay slightly under \$60, \$59 for flat, \$58,

[WITNESS: Wicker]

1 \$59, something like that. That's what --

2 Q. What if you paid these prices? This is a hypothetical
3 now.

4 A. Okay.

5 Q. I got to be careful about how I ask this question,
6 because I can't ask it with confidential information,
7 but let me ask it this way. Has the floor in the
8 contract been triggered?

9 MR. EATON: I object.

10 MR. RODIER: Okay. All right We'll
11 leave that. And, we're getting towards the end here.

12 BY MR. RODIER:

13 Q. I want to refer you to Page 2, Mr. Wicker, of your
14 testimony.

15 A. Yes.

16 Q. Lines 20 through 26. And, there, let me roughly
17 paraphrase and see if you in any way agree with how I
18 summarize this. It says you "would like to use the
19 concept in this Lempster agreement when you're
20 negotiating agreements with other renewable energy
21 projects." Is that correct?

22 A. Yes. Correct.

23 Q. Okay. Well, while I think of it, let me ask you about
24 Laidlaw. Can you tell us whether you have a deal with

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1 Laidlaw?

2 A. Laidlaw?

3 Q. Laidlaw.

4 A. I didn't talk with Laidlaw. I know that there was some
5 press release, that there was some general
6 understanding of a possibility that could lead into a
7 contract. But that's all I know. I did not -- I was
8 only involved initially. I was not involved in that.

9 Q. Okay. The press release I saw said they've got a deal
10 with Public Service. But you don't know about it, so
11 --

12 A. My understanding is just general -- general conceptual
13 ideas.

14 Q. What I'm trying to get at here is that, when a
15 renewable developer comes to you, let's say another one
16 that's in the queue someplace, if you do a deal with
17 them, you would apply the same concepts in the Lempster
18 agreements?

19 A. No, I don't think that's what we intend. I think what
20 we have developed with this project, and with the
21 Pinetree projects that we contracted for, is certain
22 ways of addressing the purchase of power, RECs,
23 capacity that we feel, you know, gives us an advantage,
24 meets our needs, meets the project's needs. And, if we

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1 gave out many of those details, it would put us at a
2 competitive disadvantage, not only dealing with other
3 projects, but maybe with other people that might buy
4 and sell power.

5 Q. Okay.

6 A. Does that change over time? Yes, it does. I mean, --

7 Q. All right.

8 A. -- would this deal change going forward, given someone
9 else? Yes.

10 Q. What if somebody came to you and said "I don't want one
11 of these indexed agreements, I want a fixed price"?

12 A. Every deal is different.

13 Q. Okay.

14 A. All it takes is a willing buyer and a willing seller.

15 Q. All right. So, the door is always open to talk, and it
16 could be indexed, it could be a fixed rate, and each
17 project is evaluated on its own?

18 A. Yes.

19 Q. But nobody is in or out just because of who they are?

20 A. No.

21 MR. RODIER: Okay. I want to -- I just
22 want to make sure that last answer was recorded?

23 MR. PATNAUDE: Yes.

24 MR. RODIER: Oh, you got it. That's it.

[WITNESS: Wicker]

1 Thank you. Appreciate it. Mr. Chairman, at this point I
2 guess what I'll do is I'll leave, it's with the ultimate
3 respect to the Commission, but I've just got some other
4 things to do. And, I never planned to cross the Staff
5 anyway. So, thank you very much.

6 CHAIRMAN GETZ: All right. Thank you,
7 Mr. Rodier. Ms. Hatfield.

8 MS. HATFIELD: Thank you, Mr. Chairman.
9 Good morning, Mr. Wicker.

10 WITNESS WICKER: Good morning.

11 CROSS-EXAMINATION

12 BY MS. HATFIELD:

13 Q. In the exhibits to your testimony, which have been
14 marked as exhibits here, specifically what's been
15 marked as "Exhibit 2", which is the PPA, and "Exhibit
16 3", which is the REC Option Agreement, when were those
17 contracts executed?

18 A. On the front it says "January 2nd", and I will look at
19 the signature page. It's my understanding it's the
20 later of -- it says "December 20th" in one, and the
21 other one says -- it looks like they were executed to
22 be effective as of January 2nd.

23 Q. Of what year?

24 A. Of 2008.

[WITNESS: Wicker]

1 Q. Thank you. At the beginning of your testimony today,
2 you stated that you have been involved in this Project
3 from the beginning, is that correct?

4 A. That's correct.

5 Q. When would you think of as being the beginning of the
6 Project?

7 A. We received a call from an electrical contractor to, at
8 that time, Community Energy, on June 4th of 2004,
9 requesting information on how to interconnect the wind
10 project they were developing in Lempster.

11 Q. So, that would have predated even the RPS law?

12 A. Absolutely. And, that's an important thing to keep in
13 mind, that this whole concept and the contract and all
14 that predated all the RPS law. There were, of course,
15 I think Massachusetts had an RPS program, New Hampshire
16 talked about one, but this was basically started before
17 that. And, we were able to bring it into, you know,
18 modify it a little bit to meet -- well, not to meet it,
19 but it does comply with the RPS law.

20 Q. And, I think you just said that it's "important to keep
21 that in mind". Why is that important in your view?

22 A. Well, I think the thing was, this is basically in late
23 of 2003, excuse me, a number of projects were looking
24 to be developed in New Hampshire. And, the Company

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1 formed a small group to deal with these projects, so
2 they would have one central point where they could come
3 in and talk about possible interconnections and things
4 like that. And, we dealt with a number of projects at
5 that point in time.

6 And, when Lempster came along, not only
7 did we talk to them about interconnection, but they had
8 some interest in a power purchase agreement. So, we
9 continued on that. We didn't have the guidelines of
10 the RPS Program, you know, as far as, you know, how
11 we'd go about it or whatever. We contracted with them
12 and came to an agreement and went forward. And, then,
13 later on, the RPS Program was established. This meets
14 our needs in the RPS Program, because it is renewable
15 Class I that we had to meet.

16 Q. So, is it fair to say that the first discussions about
17 these contracts began when you first started having
18 interconnection discussions?

19 A. Shortly thereafter. Although, the two of them are
20 separate. There is no linkage between them.

21 Q. If you would turn to Page 4 of your testimony, which
22 has been marked as "Exhibit 1".

23 A. Yes.

24 Q. If you look, starting down on Line 24, you talk about

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1 the amount of energy and RECs that the Project is
2 expected to produce annually. Do you see that?

3 A. Yes, I do.

4 Q. Is the project at this point on track to meet those
5 goals?

6 A. That's difficult to say, because a wind project, like a
7 hydro project, is very dependent on wind or water, and
8 you really never have an average year. There are
9 better years or worse years. My understanding, from
10 talking to the people at the site, is that the Project
11 is producing the amount of energy they would expect for
12 the amount of wind that's blowing at that site. So,
13 they're very happy with the fact that they're able to
14 produce the energy they expect to produce. Do they --
15 given that they have had now five years of
16 meteorological data and they were able to relate that
17 to the meteorological data in other places, you would
18 therefore expect that they will come very close to what
19 they expect over the long term.

20 Q. I'd like you to turn to Page 5 of your testimony, if
21 you would. And, this is one of a few questions that I
22 have that I would like to see if you could answer it
23 without going into confidential information. But, if
24 you don't think you can, then I'd be happy to reserve

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1 it, and perhaps we can go into a confidential record at
2 some point.

3 CHAIRMAN GETZ: Actually, at this point,
4 though, Mr. Rodier, did you want to make something in the
5 nature of a closing statement before you leave for the
6 day?

7 MR. RODIER: Well, thank you very much,
8 Mr. Chairman. I guess what I'd like to do, if it's okay,
9 I want to think about the answers, and I want to think a
10 little bit about the law. Would it be okay if I, within a
11 week from today, if I just sent a letter to the
12 Commission, I guess in the form of a closing statement?

13 CHAIRMAN GETZ: Is there any objection
14 to that?

15 (No verbal response)

16 CHAIRMAN GETZ: Hearing no objection,
17 then we'll await your filing by Friday of next week.

18 MR. RODIER: If there is one, it will be
19 in here in a week. Thank you.

20 CHAIRMAN GETZ: Ms. Hatfield, well, I
21 guess, do we want to try and do this on a public
22 transcript as much as possible, and then, if you feel like
23 you needed to go into a private record, then we can do
24 that. And, then, maybe if we can bunch together questions

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1 that are of a confidential nature, it would just be easier
2 for reproducing the record. So, --

3 MS. HATFIELD: Okay.

4 BY MS. HATFIELD:

5 Q. If you would look on Page 5, beginning on Line 9, you
6 discuss the energy pricing terms of the Power Purchase
7 Agreement. Do you see that?

8 A. Yes, I do.

9 Q. And, I'm wondering, is it possible to describe how the
10 floor price is calculated, without going into
11 confidential information, or would you need to disclose
12 --

13 A. No, I can describe it.

14 Q. Okay.

15 A. I mean, basically, in fact, there was a -- well, there
16 was a data request, I think, let me describe it
17 anyways. Basically, what we do is we calculate what
18 the hourly nodal price is, times the amount of energy.
19 We add that all together and come up with a dollar
20 value. We then do the same thing with the energy and
21 using the floor price. Okay? And, we basically would
22 pay the Project no less than that average -- I mean,
23 hourly generation times the floor price. So, for
24 example, if the floor price was \$30, generating a

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1 thousand kilowatt-hours or megawatt-hours, you'd pay
2 \$30,000 as a minimum.

3 Q. And, is that floor price a set price for the 15 year
4 term of the contract?

5 A. Yes, it is.

6 Q. And, if the floor price is above the market price, is
7 it possible that new stranded costs could be created by
8 this contract?

9 A. My understanding is that that is not possible, since
10 the definition of "stranded costs" dealt only with the
11 above-market price that we were paying for certain IPP,
12 Independent Power Producer, contracts, and that that
13 was, therefore, handled under a special rate treatment.
14 This would produce -- could produce costs above market,
15 but it wouldn't necessarily produce stranded costs.

16 Just one thing else. I mean, this is
17 done on a monthly basis. So, you could have higher
18 months and lower months. And, you would have to
19 basically, I mean, I would assume you would have to
20 have above-market prices for a period of time in order
21 to, you know, to, overall, you know, have, in effect,
22 above market for our customers.

23 Q. And, in your view, is there a risk that the contracts
24 will result in above-market costs?

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1 A. Is there a risk for any one particular month?
2 Possibly. Is there a risk over the long term? I would
3 say it's highly unlikely. That would mean that
4 basically the energy price would get down to the floor
5 price on a continual basis. And, that's considerably
6 lower than, you know, where the energy prices have
7 been. Is it lower than it may be over the next year or
8 two as, you know, the economy goes through whatever
9 it's going to go through? If I knew that, I'd do other
10 things.

11 Q. And, I think you've just testified that "there can't be
12 new stranded costs", as far as you understand. And, is
13 that true because the costs of this contract will be
14 passed onto customers through the Energy Service rate?

15 A. That is correct.

16 Q. So, really, regardless of how the pricing compares to
17 market, customers will see the costs in their Energy
18 Service rate?

19 A. That's my understanding.

20 Q. If you would turn to Page 7 please. I'd like to turn
21 your attention to your testimony starting at Line 5,
22 and this relates somewhat to some of Mr. Rodier's
23 questions for you with respect to the amount or the
24 number of RECs that this project is expected to

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1 generate, as compared to how many RECs PSNH is required
2 to have to comply with the RPS. Do you see that
3 section of your testimony?

4 A. Yes, I do.

5 Q. And, there you state that PSNH is projected to require
6 "approximately 43,000 RECs in 2009". Is that true?

7 A. You're talking about Class I only. That's true.

8 Q. Thank you. And, then, on Line 12, you state that
9 Lempster is expected to "produce 70,000 RECs annually",
10 and because of the sharing agreement with the Co-op,
11 "PSNH will be entitled to 63,000", is that correct?

12 A. Before any repurchases by the Project, yes, that's
13 correct.

14 Q. So, the 63,000 would assume that Lempster doesn't
15 exercise its option to repurchase?

16 A. That's correct.

17 Q. Does PSNH own other generation assets that produce
18 Class I RECs?

19 A. Yes, we do. The Schiller project, Northern Woods, and
20 also Smith Hydro.

21 Q. And, if you take the total of the RECs, the Class I
22 RECs that you receive from those generation resources,
23 and combine it with the Lempster RECs, will you have
24 more RECs than the Company needs to comply with the

[WITNESS: Wicker]

1 RPS?

2 A. We could have more RECs during the first few years. I
3 believe that -- maybe I addressed it in a data request,
4 where we said that -- oh, on the next page, Page 8, we
5 talk about that that, if we use all the RECs, we could
6 have excess RECs for the next couple of years. And,
7 that's without considering -- I don't think it's been
8 fully factored in that you can carry RECs forward to
9 meet 30 percent of the requirements. So, it's a
10 short-term problem, if it is a problem.

11 Q. So, if you have extra RECs, you can bank them for
12 future compliance years?

13 A. You can bank a portion of them.

14 Q. And, if you had excess RECs, and you didn't bank them,
15 would you sell them potentially to others who needed
16 them to comply?

17 A. Well, as I think I said earlier, I think we'd use
18 whatever -- we'd do whatever we needed to do to
19 maximize value. We wouldn't let them expire, they
20 would be worthless, if they were -- obviously, if they
21 were worth something. So, I mean, they do have a
22 limited time frame that they're usable.

23 CHAIRMAN GETZ: I mean, is the answer
24 "it's possible"?

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[WITNESS: Wicker]

1 WITNESS WICKER: I'm sorry?

2 CHAIRMAN GETZ: Is your answer "it's
3 possible that they could be sold to other entities"?

4 WITNESS WICKER: Oh, yes. It is
5 possible.

6 BY MS. HATFIELD:

7 Q. And, when you say "maximize value", are you referring
8 to maximizing value for PSNH's customers?

9 A. Yes. If these contracts are approved by the
10 Commission, then the value passes to our customers.

11 Q. If you could turn back to Page 6 of your testimony,
12 beginning on Line 9 you reference the "REC Option
13 Agreement". Do you see that?

14 A. Yes, I do.

15 Q. And, you also, in your testimony, discuss the fact
16 that, if Lempster wishes to exercise that option, they
17 have to pay PSNH a premium, correct?

18 A. That's correct.

19 Q. Is it safe to say that, if Lempster does exercise the
20 buyback option, they will do so when prices are high
21 or, as you stated in your testimony, that they can seek
22 the greatest value for the RECs?

23 A. That's correct. The one unknown is what time frame
24 they would be looking at, as opposed to we would look

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1 at. Would you look at the time frame today or would
2 you look at what you might be able to sell them for in
3 six months or a year?

4 Q. And, if Lempster was to buy back RECs during a time
5 when the market price for RECs was high, and PSNH
6 needed additional RECs in order to comply with the RPS,
7 then PSNH would also face higher market prices for
8 RECs?

9 A. I'm sorry, higher than what?

10 Q. Well, what I'm trying to get at is, if Lempster
11 exercises its option, I think we can all assume that
12 they would do so when the market price for their RECs
13 is high, because they would be trying to get the higher
14 market price?

15 A. That's correct.

16 Q. So, I think there -- I think, in your testimony, you
17 acknowledge that, because they would be seeking to get
18 the greatest value, that might be a time when PSNH
19 would have to go into the REC market and buy when the
20 price was high?

21 A. Or pay the default prices. But offsetting that, of
22 course, would be the premium we would get for them
23 repurchasing them.

24 Q. And, you may be familiar, in Mr. Mullen's testimony, I

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1 think he makes a statement about how it would be
2 preferrable if there wasn't a buyback option. And, in
3 light of that, why is it your opinion that, even with
4 the buyback option, these contracts are in ratepayers'
5 interests?

6 A. Well, I think you look at it as, if we started out and
7 we only purchased half of the, for instance, half of
8 the RECs to start with, then, you know, that would be
9 the deal. You know, the fact is that we have an
10 option, they have an option, it just gives them more
11 flexibility. It's all part of what's necessary to make
12 a deal where all the parties are happy with it, and the
13 Project is financially viable so that it could go and
14 did go forward and was built.

15 Q. Do you know what the current price is for Class I RECs?

16 A. My understanding, in looking at some of the bid sheets
17 that we use, is that the Class I RECs in Massachusetts
18 and Connecticut, for 2009, are in the \$27 to \$37 range;
19 for 2010, it's from \$24 to \$37. I think there's a
20 price for Connecticut for 2011, but not for
21 Massachusetts.

22 Q. Thank you. On Page 8 of your testimony, you discuss,
23 excuse me, RSA 362-F:9, which is the section of the RPS
24 statute that authorizes multi-year contracts. Do you

[WITNESS: Wicker]

1 see that?

2 A. Yes, I do.

3 Q. And, on -- at line, excuse me, on the next page, on
4 Page 9, at Line 9, you discuss that Section II(b) of
5 that statute requires that the Commission determine the
6 extent to which the contract is substantially
7 consistent with the restructuring policy principles of
8 RSA 374-F:3. Do you see that?

9 A. Yes, I do.

10 Q. In Mr. Mullen's testimony, he focused in on four of the
11 fifteen interdependent policy principles in the
12 restructuring statute. Do you recall his testimony?

13 A. Yes, I do.

14 Q. There is another principle found in those policies that
15 is called "Regulation and unbundling of rates". And,
16 it states, in part, that "generation services should be
17 subject to market competition". Are you aware of that
18 principle?

19 A. Generally.

20 Q. In your view, how are the proposed contracts consistent
21 with that and subject to market competition?

22 A. I'm not so sure I'm knowledgeable enough to answer
23 that. I think this is where you go back to the fact
24 that the contract was negotiated before the New

[WITNESS: Wicker]

1 Hampshire RPS Program came into effect, and some of
2 these standards, if you want to call them, which it's
3 in the law, we were basically negotiating, we
4 negotiated the contract before that took effect.

5 Q. On Page 5, Line 20, of your testimony, and again this
6 is a confidential area that I'd like to try to explore
7 publicly, if we could, --

8 A. Uh-huh.

9 Q. -- you discuss the "capacity pricing terms in the PPA",
10 do you see that?

11 A. Yes, I do.

12 Q. And, I'm struggling with how to ask the question
13 without going into confidential information. So, is it
14 okay if I ask it, and we address it? Is it accurate
15 that from that -- well, let me ask this first. When
16 will Lempster be eligible to earn capacity credits?

17 MR. EATON: I don't think that's --

18 **BY THE WITNESS:**

19 A. They will actually earn capacity credits from ISO in
20 the January period. It came on line in, I'm sorry, in
21 the December period.

22 **BY MS. HATFIELD:**

23 Q. _____
24 _____

[WITNESS: Wicker]

1 _____?

2 A. _____.

3 MR. EATON: That needs to be in a
4 private or a protected area of the transcript, because the
5 project year is confidential.

6 CHAIRMAN GETZ: Well, let me suggest
7 this, as we've done in other cases, that the parties meet
8 after the hearing is closed to review the transcript. It
9 seems to me, in this particular instance, the redaction
10 can be similar to what was done in the testimony, because
11 it's really the year number that's the -- is at this point
12 the confidential piece. So, so far there's only one
13 number that needs to be redacted.

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

15 BY MS. HATFIELD:

16 Q. _____
17 _____?

18 A. _____
19 _____

20 _____.

21 Q. _____?

22 A. _____.

23 Q. _____?

24 A. _____

[WITNESS: Wicker]

1

_____.

2

Q. _____.

3

A. _____.

4

Q. And, you previously testified that the term of the contract is 15 years, correct?

5

6

A. Fifteen power years.

7

Q. And, that would begin in November of 2008?

8

A. The first -- The first project year is actually 13 and a half months, because it doesn't start till the first of the month after the Project goes commercial. So, there's a step period that gets added into the first year.

10

11

12

13

Q. So, would the contracts expire in year 2023?

14

A. December 1st, 2023, if I did that right.

15

Q. Thank you. Under the contracts, are there minimum or maximum amounts of energy, capacity, or RECs that PSNH must purchase on an annual basis?

16

17

18

A. We purchase everything that's generated, what is generated, delivered.

19

20

Q. If more capacity is later added at the Lempster Project, can PSNH purchase additional energy capacity and RECs at the current contract prices?

21

22

23

A. No. The site is limited to the existing 12 machines, twelve 2-megawatt machines. For the period of time,

24

[WITNESS: Wicker]

1 the electrical interconnection is basically limited to
2 24 megawatts. Anything else, any changes would have to
3 be a separate contract. I suppose, if they decided
4 they wanted to replace a machine, you would negotiate,
5 see whether you could and how you would address it.
6 But there are no provisions for upgrades or anything in
7 here.

8 Q. And, does PSNH have any options of first option to
9 purchase any new output from the plant?

10 A. No, because it's not covered under this agreement.

11 Q. But you do have an option to purchase the facility, is
12 that correct?

13 A. We have an option to be considered as a purchaser. In
14 other words, we have the right to at least present a
15 proposal, if at some point in time the Project decides
16 to sell Lempster, to sell itself, we have the right to
17 participate, just so there wouldn't be a closed sale.
18 That's all it means.

19 Q. Thank you. Can the Commission approve only a part of
20 the contracts that you're seeking approval for? For
21 example, could the Commission approve all portions,
22 except the REC Buyback Agreement?

23 A. I'm looking at my lawyer. The biggest problem I see is
24 that I don't think we'd find that acceptable, because

[WITNESS: Wicker]

1 you'd put us in the position where we may have to take
2 RECs at a certain price that we don't have and go to
3 the market and buy them at a different price. So, I
4 don't think that we would find that acceptable to
5 eliminate the repurchase option.

6 Q. And, so, you --

7 A. Whether they could do it or not, I don't know. And, if
8 I can add one thing. Regardless of that, we would --
9 the Company would still be -- we're contractually
10 required to buy the power, RECs, and capacity and live
11 under the terms of the Repurchase Agreement.

12 Q. Thank you. During data requests, Staff I believe asked
13 if PSNH had received proof of an extended maintenance
14 warranty from Lempster, and I believe the Company had
15 said that it had not at that time, but it expected to.
16 Do you know if you've received that yet?

17 A. Yes, we have. And, it was satisfactory.

18 Q. And, in response to another data request regarding
19 capacity, you referred to something you called the
20 "initial term of the contract". And, I didn't see a
21 definition for the "initial term". Can you talk about
22 what that time frame is?

23 A. Could you refer me to it?

24 Q. Sure. It's Staff Set 3, Question 1.

[WITNESS: Wicker]

1 A. What was the date on that? Did you say "Set 3"?

2 Q. Yes. Actually, I think it was actually Staff Set 2,
3 but they're labeled "Staff 3", and they're dated August
4 1st, 2008. But I have a copy I can show you, if that
5 would be helpful.

6 A. For some reason I don't have it in my pile right here.

7 (Atty. Hatfield showing document to the
8 witness.)

9 **BY THE WITNESS:**

10 A. I believe that the reference here was to the first
11 years in which we own -- in which we were entitled to
12 all the capacity at no cost. I don't remember a term
13 "initial term" in the Agreement.

14 **BY MS. HATFIELD:**

15 Q. And, so, that's the period that you were referring to
16 when you were speaking earlier about the capacity
17 aspect of the Agreement?

18 A. Yes.

19 Q. In response to another data request, you stated that
20 "PSNH conducted various studies on the costs and
21 benefits of entering into agreements." Do you recall
22 that?

23 A. Yes.

24 Q. And, what studies did the Company conduct in order to

[WITNESS: Wicker]

1 consider the costs and benefits of entering into the
2 agreements?

3 A. I think they were fairly straightforward spreadsheet
4 analyses, making projections of energy costs, making
5 projections of capacity costs, making projections of
6 RECs, the price of RECs, and then determining, you
7 know, based upon the benefits we were receiving from
8 the discounts we were getting, you know, what type of
9 problems you would have if things -- the energy prices
10 went down by 10 percent, 20 percent, something like
11 that, you know, fairly straightforward. There was no
12 -- I think somebody asked a question about "whether
13 there was some sophisticated analysis of it?" And, no,
14 we did not.

15 MS. HATFIELD: Mr. Chairman, I'd like to
16 make a record request for PSNH to provide those studies,
17 because, to my knowledge, they haven't been placed into
18 the record at this time.

19 CHAIRMAN GETZ: Mr. Eaton.

20 MR. EATON: Mr. Chairman, that was a
21 request from Constellation, which was dated on July 31st,
22 2008. And, Constellation -- we did not provide those
23 studies at the time and object -- didn't object to the
24 question, we simply said that they were covered by the

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[WITNESS: Wicker]

1 confidentiality agreement. And, Constellation did not
2 move to compel, and we did not provide the responses.
3 And, I don't see, unless the Consumer Advocate has some
4 need to supplant the record here or make some argument in
5 brief about it, I don't see why the Consumer Advocate
6 couldn't have asked for these much sooner than now. I
7 don't see how they're going to add to the record and of
8 what purpose they would be needed in this record.

9 CHAIRMAN GETZ: Ms. Hatfield.

10 MS. HATFIELD: Mr. Chairman, I do agree
11 with Mr. Eaton that we clearly could have asked for these
12 before now, as this response was dated on July 31st of
13 last year. But it seems to me that, given the findings
14 and the legal analysis that the Commission is required to
15 do under the RPS statute, that it would be helpful for the
16 Commission, in its consideration of these contracts, to
17 see the Company's analysis of why they believe that,
18 looking at all of the costs and benefits of these
19 agreements, that in the end they are beneficial to
20 ratepayers over the entire 15 year term. And, I think
21 that, you know, because this is the first time the
22 Commission is seeing proposals for that period of time,
23 that my thinking really was that that would be helpful to
24 the Commission.

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[WITNESS: Wicker]

1 CHAIRMAN GETZ: Is it fair for me to
2 conclude that you have no objection to the material being
3 treated as confidential?

4 MS. HATFIELD: None at all.

5 CHAIRMAN GETZ: Is there some argument
6 that this is burdensome to produce? It sounds like you
7 had the materials ready to go at some point.

8 MR. EATON: No, it would not be
9 burdensome. But you anticipated my request that, if
10 they're supplied, they would be under confidential
11 treatment.

12 CHAIRMAN GETZ: Okay. We'll hold a --
13 is it Exhibit Number 7, for the record response.

14 (Exhibit 7 reserved)

15 MS. HATFIELD: Thank you.

16 BY MS. HATFIELD:

17 Q. Mr. Wicker, I just have one last question for you.

18 And, I'm wondering if you have any views on whether
19 PSNH should issue RFPs or requests for proposals to
20 meet its REC needs as required by the RPS statute?

21 MR. EATON: Could I ask the Consumer
22 Advocate, our "RECs needs" as required by the RPS statute
23 or that RFPs are required by the RPS statute?

24 MS. HATFIELD: No, I certainly was not

[WITNESS: Wicker]

1 asking for his legal opinion on whether the statute
2 required RFPs. I was really more just seeking to get his
3 thoughts or his views on the use of RFPs, and whether they
4 would be appropriate for the Company to use at any point
5 in the future, similar to how the other distribution
6 companies in New Hampshire meet their RPS needs.

7 **BY THE WITNESS:**

8 A. First of all, managing the requirements for RPS and
9 RECs and all that is not a function that I'm involved
10 in. However, in dealing with the Pinetree projects and
11 the Lempster projects and other projects that we've
12 dealt with, there definitely is a place for an RPS. An
13 RPS works -- usually work better when you either don't
14 have an idea of what's out there and you need to spread
15 the information to a lot of people or --

16 **BY MS. HATFIELD:**

17 Q. Could I just interrupt you. You said "there is a place
18 for an RPS", I think you -- did you mean to say "there
19 may be a place for an RFP"?

20 A. I'm sorry.

21 Q. That's okay.

22 A. "RFP", you're correct. There is definitely a place for
23 an RFP. But they work especially well when you have a
24 lot of bidders, because you can generate some

[WITNESS: Wicker]

1 competition between them. The problem we've seen so
2 far is that there's a very limited market in new
3 projects. If you want to go out and buy them from the
4 market, that's one thing, existing projects. But, if
5 you want to buy a project, a longer term one, there's a
6 fairly limited number of projects that will, you know,
7 will be able to bid. And, especially if you're talking
8 about wind projects and things like that, the project
9 may not even be built, may be still on paper. So, it
10 presents some problems as to how you deal with that.

11 I think, if you have a market where you
12 have a number of renewable projects that can supply
13 RECs that are not under contract for RECs, and you can
14 go out and request a number of projects to submit bids
15 for a certain period of time, then an RPS [RFP?] could
16 be most appropriate.

17 MS. HATFIELD: Thank you very much. I
18 have no further questions.

19 CHAIRMAN GETZ: Ms. Amidon.

20 MS. AMIDON: Thank you.

21 BY MS. AMIDON:

22 Q. On Page 5 of your testimony, Mr. Wicker, you reference
23 that, at Line -- in response to the question that is at
24 Line 9, you indicate that the prices of the energy is

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[WITNESS: Wicker]

1 referenced to the ISO-NE Energy Price. Do I understand
2 that you calculate that price on a monthly basis or --

3 A. We get data from ISO on an hourly basis for the LMP
4 price at the North Road node.

5 Q. Okay. But do you know what that price has averaged out
6 say for the month of December or what the most recent
7 price is?

8 A. The North Road market price for December was 58.53.
9 The January was 66.92. That's dollars per
10 megawatt-hour.

11 Q. Thank you.

12 A. Do you want the other two months, too?

13 Q. Do you have them?

14 A. 61.55 -- I'm sorry, 61.51 for November.

15 Q. Okay.

16 A. And, 64 -- oh, forget October, because that was only a
17 partial, I'm not so sure I have it correct. I don't
18 have a full month for October, because they were only
19 on line from the 21st on.

20 Q. Thank you. Later on, on Page -- at line 20 on the same
21 page, you talk about the specific capacity pricing in
22 the PPA with respect to the capacity that you'll be
23 purchasing. What is the amount that PSNH is credited
24 for the Project's capacity in the ISO-NE settlement

[WITNESS: Wicker]

1 account? Is that available?

2 A. 22.414 megawatts net. That's what ISO recognizes --
3 or, I'm sorry, that's what ISO recognized for the month
4 of December as the ISO claimed capacity for Lempster.

5 Q. Thank you. Were there any updates in the testimony,
6 and I don't think there were, on what your projected
7 requirements for Class I RECs are for 2009 and 2010?

8 A. I believe that they are working on some updates for
9 that. But, given the recent situation over the last
10 four or five months, I did not go and look for them,
11 and I don't think they're ready to produce them. I
12 don't know that. I just know there's some question as
13 to what will happen as far as load and capacity for
14 2009 and '10.

15 Q. And, will be -- I am assuming that you'll be including
16 that in your periodic filing with the Commission on the
17 Energy Service rate?

18 A. I'll look to Mr. Hall.

19 (Atty. Eaton conferring with Mr. Hall.)

20 MR. EATON: Mr. Hall says "yes".

21 MS. AMIDON: Oh, thank you very much. I
22 knew I'd get him to testify somewhere along the way here.

23 BY MS. AMIDON:

24 Q. What was the first month that Lempster was eligible to

[WITNESS: Wicker]

1 produce Class I RECs under New Hampshire law?

2 A. I think they were approved in September by New
3 Hampshire, for New Hampshire Class I RECs, I think,
4 before they came on line.

5 Q. So, when they started producing, they were eligible for
6 the last quarter of 2008?

7 A. All megawatt-hours produced RECs.

8 MS. AMIDON: Okay. I think that's it.
9 Thank you.

10 CMSR. BELOW: Yes, I have a question.

11 BY CMSR. BELOW:

12 Q. Is there more than one way for PSNH to meet its
13 renewable portfolio requirements in New Hampshire?

14 A. Do you mean more than either buying RECs or paying the
15 Alternative Compliance Payment?

16 Q. Right. I mean, that would be two different ways to
17 meet its requirement. Is that correct? I mean, it
18 could either --

19 A. That's the only way you can do it.

20 Q. -- provide the RECs or it can make the --

21 A. Make the payment.

22 Q. -- the Alternative Compliance Payment?

23 A. Correct.

24 Q. Okay. To the extent that PSNH sells RECs that it's

[WITNESS: Wicker]

1 acquired, because, for instance, it might do so if the
2 price was higher than the New Hampshire ACP, would you
3 be crediting the proceeds from that sale to meet your
4 New Hampshire ACP?

5 A. That's my understanding. We would also credit any
6 premium from repurchases to our customers. Now,
7 whether it flows through -- Mr. Hall is nodding over
8 there. The premium will flow through to the benefit of
9 the customers. How it actually flows through the ACP,
10 the Renewable Portfolio Standard Program, I'm not sure,
11 but it would be credited.

12 CMSR. BELOW: Okay. That's all.

13 CHAIRMAN GETZ: Redirect, Mr. Eaton?

14 MR. EATON: I have many questions of
15 redirect to Mr. Hall, but only one for Mr. Wicker.

16 **REDIRECT EXAMINATION**

17 BY MR. EATON:

18 Q. Mr. Rodier asked you some questions about the total
19 number of RECs, and the fact that the Company might
20 sell these RECs if the conditions were favorable. Is
21 it your opinion, over the term of the 15 years, that
22 purchase of the RECs, if they're offered by Lempster,
23 and the option to -- is not exercised by Lempster, that
24 the RECs to be produced are reasonably expected to be

[WITNESS: Wicker]

1 needed by PSNH to meet its obligations under the RPS?

2 A. Are you saying, are we going to need the RECs from
3 Lempster over the 15 year term?

4 Q. Yes.

5 A. Yes. Unless, as I understand the current projections
6 of the requirements to get to 2025 and 25 percent, or
7 whatever that is, however that works, we will need
8 Lempster RECs, because Lempster, at the most, can
9 produce 70,000, and we'll be to 227,000 RECs we'll
10 require in 2012. So, 70,000 will be a small percentage
11 of them.

12 MR. EATON: Thank you. That's the only
13 question I have on redirect.

14 CHAIRMAN GETZ: Is there anything
15 further for Mr. Wicker?

16 (No verbal response)

17 CHAIRMAN GETZ: Hearing nothing, then
18 the witness is excused. Thank you. Let's take about a
19 ten minute recess, and then we will resume, we'll hear
20 from Mr. Mullen.

21 (Whereupon a recess was 11:42 a.m. and
22 the hearing reconvened at 11:55 a.m.)

23 CHAIRMAN GETZ: Okay. We're back on the
24 record and proceed with the direct examination of Mr.

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[WITNESS: Mullen]

1 Mullen.

2 MS. AMIDON: Can you swear in the
3 witness?

4 (Whereupon Steven E. Mullen was duly
5 sworn and cautioned by the Court
6 Reporter.)

7 STEVEN E. MULLEN, SWORN

8 DIRECT EXAMINATION

9 BY MS. AMIDON:

10 Q. Mr. Mullen, please state your name and your business
11 address for the record.

12 A. My name is Steven E. Mullen. My business address is 21
13 South Fruit Street, Concord, New Hampshire, and I work
14 here at the Commission.

15 Q. And, what's your position?

16 A. I'm the Assistant Director of the Electric Division.

17 Q. Have you testified before the Committee -- I mean, the
18 Commission before?

19 A. Yes, I have.

20 Q. Thank you. And, do you have in front of you a document
21 that includes a cover letter, and it's date stamped
22 received by the Commission "October 1, 2008" that
23 contains the "Redacted Testimony of Steven E. Mullen"?

24 A. Yes, I do.

[WITNESS: Mullen]

1 Q. Do you have -- Was this prepared by you?

2 A. Yes, it was.

3 Q. And, do you have any revisions or corrections which you
4 would like to make to your testimony today?

5 A. I would just like to add in a few words on Page 14,
6 Line 14. The line starts "the other hand, the costs",
7 after the word "costs", I would put "found to be
8 prudent".

9 Q. Are there any other changes?

10 A. None.

11 Q. Now, as I understand it, your testimony constitutes
12 your analysis of the contracts submitted by PSNH in
13 this docket to determine whether or not they meet the
14 requirements in RSA 362-F:9, is that correct?

15 A. Yes.

16 Q. Okay. And, in pertinent part, at II to RSA 362-F:9, it
17 says "The Commission shall find that the proposal is,
18 on balance, substantially consistent with the following
19 factors:", and then there are five factors listed (a)
20 through (e). Would you provide us with your
21 interpretation of the phrase "on balance, substantially
22 consistent with the following factors", and how that
23 applied to your review of the contracts?

24 A. Yes. And, I described this some on Page 5 of my

[WITNESS: Mullen]

1 testimony. Basically, when I see those words of "on
2 balance, substantially consistent with", that tells me
3 that the Commission really should look at the deal and
4 all the terms and conditions of the various components
5 in their entirety. And, as well as, in looking at the
6 various components of 362-F:9, those are all things
7 that the Commission needs to consider in determining
8 whether this is in the public interest. But, again,
9 it's a whole package.

10 Q. And, by that you mean the contract for the purchased
11 power and capacity and for the REC acquisition as well?

12 A. Yes.

13 Q. Now, Ms. Hatfield indicated that, in your testimony, I
14 believe this is true, on Page 6 you reference four what
15 you consider to be the pertinent standards in the
16 restructuring statute, RSA 374-F:3, which is referenced
17 in RSA 362-F:9. Could you please explain why you
18 selected those four criteria as relevant to the instant
19 proceeding?

20 A. I looked through all the criteria that were included in
21 374 -- all the restructuring policy principles
22 contained in 374-F:3. And, as I went through, those
23 were the four that I found to be pertinent. Some of
24 the other ones deal more with the actual onset of

[WITNESS: Mullen]

1 electric restructuring in the state and didn't quite
2 find them relevant.

3 Q. And, in fact, RSA 374-F is the New Hampshire law
4 restructuring the electric utility industry, is that
5 correct?

6 A. Yes.

7 Q. And, Ms. Hatfield asked Mr. Wicker about this III in
8 RSA 374-F:3, the standard entitled "Regulation and
9 Unbundling of Services and Rates". Why did you not
10 think that this was relevant to your review of this
11 contract or these contracts?

12 A. As I look at that provision of 374-F:3, let me just
13 read a sentence from that. It says "Generation
14 services should be subject to market competition and
15 minimal economic regulation and at least functionally
16 separated from transmission and distribution services
17 which should remain unregulated for the foreseeable
18 future." So, as I look at that, basically, I didn't
19 find that pertinent to this case, because what that is
20 basically telling me was that one of the ideas of going
21 to industry restructuring was that generation wasn't to
22 be owned by vertically integrated utilities. So,
23 that's where I took the whole point of that provision.
24 Granted, we know things have changed since then. So,

[WITNESS: Mullen]

1 in terms of that just being the ownership of the
2 generation, I didn't see how -- I didn't find it
3 pertinent to the review of these contracts.

4 MS. AMIDON: Thank you. And, Mr.
5 Chairman, I inadvertently neglected to request that Mr.
6 Mullen's testimony be marked for identification as
7 "Exhibit 8". I apologize.

8 CHAIRMAN GETZ: It will be so marked.
9 (The document, as described, was
10 herewith marked as **Exhibit 8** for
11 identification.)

12 MS. AMIDON: Thank you.

13 BY MS. AMIDON:

14 Q. And, Attorney Hatfield also referenced your testimony
15 and characterized your testimony as suggesting that "it
16 would have been preferable if PSNH had not entered into
17 the Repurchase Agreement with Lempster". Is that a
18 correct characterization of your testimony?

19 A. Well, I think, if I can refer you to Page 11 of my
20 testimony, Line 16, basically what I was saying there
21 was "it would be preferable for PSNH to retain all the
22 RECs." I wasn't necessarily saying "it would be
23 preferable if there was no buyback option." So, that
24 would basically mean it would be preferable if, for

[WITNESS: Mullen]

1 whatever reasons, Lempster did not exercise its
2 options, then PSNH would retain, and, again, I was
3 referencing what I considered the favorable pricing
4 terms of the RECs.

5 Q. And, does your assessment of the favorable pricing
6 terms remain today, as it did back in October, when
7 this testimony was filed?

8 A. Yes.

9 Q. And, overall, what is your recommendation to the
10 Commission regarding the Purchase Power Agreement and
11 the Renewable Energy Certificate Option Agreement?

12 A. I recommend that the Commission find that they are
13 consistent with the requirements of RSA 362-F:9, and
14 that they're in the public interest.

15 MS. AMIDON: Thank you. I have no
16 further questions.

17 CHAIRMAN GETZ: Ms. Hatfield.

18 MS. AMIDON: Thank you, Mr. Chairman.
19 Good morning, Mr. Mullen, or "afternoon" I guess it is
20 now.

21 WITNESS MULLEN: Yes, just about. Good
22 morning or afternoon.

23 CROSS-EXAMINATION

24 BY MS. HATFIELD:

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[WITNESS: Mullen]

1 Q. On Page 7 of your testimony, on Line 9 you cite to "RSA
2 378:37", which is the state's Energy Policy. Do you
3 see that?

4 A. Yes.

5 Q. And, that section of the statute that you cite
6 includes, among other things, that it is the policy of
7 the state to meet our energy needs "at the lowest
8 reasonable cost". Do you see that?

9 A. That's part of what the statute says, yes.

10 Q. And, is it your opinion that the proposed contracts
11 meet the PSNH customers' energy and REC needs at the
12 lowest reasonable cost, according to their terms?

13 A. Well, what I say is it's part of what the statute says.
14 I think it's important to read the entire statute.
15 And, if I could just read that into the record here.
16 It says "The general court declares that it shall be
17 the energy policy of this state to meet the energy
18 needs of the citizens and businesses of the state at
19 the lowest reasonable cost while providing for the
20 reliability and diversity of energy sources; the
21 protection of the safety and health of the citizens,
22 the physical environment of the state, and the future
23 supplies of nonrenewable resources; and consideration
24 of the financial stability of the state's utilities."

[WITNESS: Mullen]

1 So, you know, rather than just pick a
2 few words out of the statute, I think the whole thing
3 has to be taken into context. And, some of those --
4 some of those other things that are mentioned in the
5 statute, you know, can be quantified dollarwise and
6 others can't. So, when you start talking about the
7 "lowest reasonable cost", it's important to take all of
8 those other things into consideration at the same time.

9 Q. So, is it your view that sometimes, in order to achieve
10 other policy goals, our energy may not be at the lowest
11 cost, but we might decide that it's still the energy we
12 want to use for other reasons?

13 A. Yes. I think the key there is, you know, you're
14 looking at the "lowest reasonable cost", rather than
15 the "lowest absolute cost".

16 Q. Thank you. On Page 8, you list the REC prices that are
17 in the contracts. And, I don't think we need to
18 actually go into the numbers. I really just wanted to
19 ask you if you heard Mr. Wicker's testimony that the
20 current range for REC prices is between \$24 and \$37 for
21 2009?

22 A. Yes, I heard that.

23 Q. And, is that consistent with your knowledge about REC
24 prices?

[WITNESS: Mullen]

1 A. I haven't personally seen anything else to substantiate
2 that, but I have no reason to doubt it.

3 Q. And, do you know what the current ACP for Class I RECs
4 is in New Hampshire?

5 A. Bear with me, I have that. For 2009, the Class I REC
6 price is \$60.92 per megawatt-hour.

7 Q. Thank you. On Page 9, you list projects that, as of
8 the time of your testimony, qualified for New Hampshire
9 Class I RECs. Do you have any updates to the projects
10 that qualify?

11 A. Yes, I do. Since the time of filing my testimony,
12 there's been six more projects that have been certified
13 for Class I; one wind project and five landfill gas
14 projects.

15 Q. Would those all be Class I?

16 A. Yes.

17 Q. And, are those currently on line, to your knowledge?

18 A. I believe they are, but I'd have to say that subject to
19 check.

20 Q. Okay. On Page 10 of your testimony, you are
21 discussing, in part, the relationship between the REC
22 prices in the contract and the market prices. Do you
23 see that section?

24 A. Yes.

[WITNESS: Mullen]

1 Q. Is it possible that the REC prices in the agreement may
2 be higher than the market price?

3 A. That could happen.

4 Q. Do you know if there are any terms in the contract for
5 RECs that allow PSNH to renegotiate the terms, if that
6 were to happen?

7 A. Well, I think my recollection is that there's some
8 general language in there about modifications to the
9 contract, as long as both parties agree. Beyond that,
10 specifics related to the -- you know, targeted right to
11 the REC price, I don't recall anything of that nature.

12 Q. On Page 12 of your testimony, on Line 4, you reference
13 "Docket Number DE 07-125", which is the first docket in
14 which the Commission considered long term contracts to
15 comply with the RPS statute. Do you see that?

16 A. Yes.

17 Q. And, are you familiar with that case?

18 A. Yes.

19 Q. And, in the final order in that case, Order Number
20 24,839, the Commission, and in that case it was dealing
21 with three-year contracts, the Commission stated that
22 those three-year terms avoid the need to make long-term
23 projections about the movement of the energy market.

24 In your view, how do the terms of these contracts,

[WITNESS: Mullen]

1 given that the term is 15 years, address that important
2 issue?

3 A. The Pinetree contracts, if I remember correctly, those
4 were fixed prices, and I believe those were up to
5 three-year contracts. The Lempster does not have fixed
6 energy prices, but rather it's indexed to the market
7 price.

8 Q. So, in your view, does that provide customer value or
9 customer protection?

10 A. Yes. Because we're all familiar with the IPP contracts
11 that go -- that started in the mid 80's, and this would
12 work quite differently from that.

13 Q. Now, these contracts, although, as you said, they are
14 indexed, there is a floor price for energy, is that
15 correct?

16 A. Yes.

17 Q. And, do you have any concerns with that aspect of the
18 contract?

19 A. What type of concerns?

20 Q. Well, just I'm wondering, do you think that the floor
21 price is still appropriate, given that the contract is
22 executed by PSNH over a year ago?

23 A. Well, then it goes back to basically my discussion
24 about this all being a package. I think, if anyone

[WITNESS: Mullen]

1 were to try to say "well, I think the floor price
2 should be different now", then I think you'd have to
3 say "well, some of other pricing terms for capacity,
4 for RECs, and some of the other terms that are in there
5 might also have to change."

6 Q. So, on balance, is it your view that the entire package
7 is beneficial for customers?

8 A. Yes.

9 Q. On the top of Page 13, you provide an example of how
10 the floor price would come into effect. And, I think
11 you can discuss that without going into the
12 confidential information, would you mind just quickly
13 walking us through that?

14 A. Sure. This was just, excuse me, this was just an
15 illustrative example to show how it would work. And,
16 since PSNH is paying basically a price that is indexed
17 to the market price, I just created an example here.
18 And, I made up numbers just to, again, go through how
19 it would work. And, I said "Well, assume that PSNH is
20 paying 75 percent of the New Hampshire nodal price.
21 And, the floor was set at \$40 per megawatt-hour. What
22 that would basically mean is that, when the average New
23 Hampshire monthly nodal price went below \$53.33 per
24 megawatt-hour, the floor price provision would come

[WITNESS: Mullen]

1 into effect." How you get to 53.33 is you basically
2 take 40 and divide by 75 percent.

3 So, then, I took it another step further
4 and said, "If the average monthly New Hampshire nodal
5 price was actually \$50 per megawatt-hour, PSNH would
6 have paid 37.50 for the month, which is basically 50
7 times 75 percent. Therefore, it would be an adjustment
8 of \$2.50 per megawatt-hour to get back up to the \$40
9 floor price."

10 Q. Thank you. On Line 9, you begin a discussion of
11 whether it's possible that the energy prices in the
12 contract could be above market. Do you see that?

13 A. Yes.

14 Q. And, do you agree that it's possible that they could
15 be?

16 A. It's possible they could be. You know, especially if
17 you want to pick one month here or one month there,
18 yes.

19 Q. And, do you agree with Mr. Wicker's testimony that,
20 regardless of the price paid, all costs for energy
21 under the PPA contract will be passed onto customers
22 through the Energy Service charge?

23 A. Yes, assuming the contracts are approved by the
24 Commission.

[WITNESS: Mullen]

1 Q. And, if that's the case, is it also your understanding
2 that no costs related to these contracts would be
3 included in the Company's Stranded Cost Charge?

4 A. That is correct.

5 Q. Thank you. On Page 13, at Line 18, you state that you
6 "reviewed the monthly average locational marginal
7 prices for the New Hampshire load zone from
8 January 2006 through August 2008." Do you see that?

9 A. Yes.

10 Q. Have you reviewed any forward projections?

11 A. At the time of preparing my testimony, I did review
12 some forward price curves that were in the 2007 Avoided
13 Energy Supply Cost Study that was performed by Synapse.

14 Q. And, have you looked at any other forward projections?

15 A. At the time I prepared my testimony, no. I looked at
16 those just briefly, and I haven't recently looked at
17 any other future prices, other than the ones Mr. Rodier
18 handed out this morning.

19 Q. In your testimony, you said that during the time period
20 you had reviewed, the prices had been on an upward
21 trend. Is that still the case?

22 A. For the period January '06 through August '08, they
23 were. If you just look at the last months after
24 August, I have it somewhere, I don't have it in front

[WITNESS: Mullen]

1 of me right now, but I know the months of September
2 through December were lower than say the earlier part
3 of '08.

4 Q. And, based on anything that's changed since you filed
5 this testimony, has it affected your recommendation to
6 the Commission in any way?

7 A. No, it has not.

8 MS. HATFIELD: Thank you very much. No
9 further questions.

10 CHAIRMAN GETZ: Mr. Eaton.

11 BY MR. EATON:

12 Q. Mr. Mullen, I don't have page numbers at the bottom of
13 every one of the pages of my testimony. Could you tell
14 me where your correction was once again?

15 A. Sure. And, I apologize. It appears there was some
16 sort of PDF issue when this was being converted. This
17 was on Page 14, which has a question at the top that
18 starts "If circumstances caused the floor energy
19 price"?

20 Q. Yes, I have that.

21 A. Line 14, which is three lines before the next question,
22 where the line starts "the other hand, the costs", and
23 then, after "costs", I would insert "found to be
24 prudent".

[WITNESS: Mullen]

1 MR. EATON: Thank you. That concludes
2 my blistering cross-examination.

3 MS. HATFIELD: Mr. Chairman, I'm sorry.
4 I did have one additional question, if I could?

5 CHAIRMAN GETZ: Please.

6 BY MS. HATFIELD:

7 Q. Mr. Mullen, do you agree with Mr. Wicker's earlier
8 testimony that, because the contracts are already in
9 place, if this Commission doesn't approve the
10 agreements, then PSNH would continue to book all of the
11 costs below the line?

12 A. Well, you know, whether they physically go below the
13 line or not, I just have to think of it this way: It's
14 a matter of whether the costs get included in recovery
15 through rates. So, whether they physically go below
16 the line or whether, I mean, it's no different than any
17 other cost that the Commission says --

18 (Cellphone ringing.)

19 CONTINUED BY THE WITNESS:

20 A. -- that the Commission says, you know, may or may not
21 be approved. So, you know, one way to -- you could say
22 "below the line", which has the same effect. But it's
23 just a matter of, you know, I tend to look at it more
24 as whether or not they would be recoverable in rates.

[WITNESS: Mullen]

1 BY MS. HATFIELD:

2 Q. And, if the Commission did not approve the contracts,
3 could PSNH still, in some other way, use the energy,
4 capacity, and RECs to serve PSNH's customers in
5 providing Energy Service?

6 A. I'd have to think that through a little bit. You know,
7 I suppose that --

8 (Cellphone ringing.)

9 MR. EATON: I apologize.

10 CONTINUED BY THE WITNESS:

11 A. If those costs aren't recoverable through rates, then,
12 you know, I'd have to see. They would still impact
13 PSNH's bottom line. But, in terms of whether or not
14 they would still be able to use that power to
15 essentially, you know, somehow to either PSNH's -- to
16 the benefit of their customers, I don't know. I'd have
17 to think that through a little bit.

18 MS. HATFIELD: Okay. Thank you.

19 CHAIRMAN GETZ: Any redirect, Ms.

20 Amidon?

21 MS. AMIDON: No thank you.

22 CHAIRMAN GETZ: Okay. Then, there's
23 nothing else for this witness. You're excused. Thank
24 you, Mr. Mullen.

{DE 08-077} [REDACTED - For public use] {02-05-09}

1 Is there any objection to striking the
2 identifications and admitting the exhibits into evidence?

3 (No verbal response)

4 CHAIRMAN GETZ: Hearing no objection,
5 they will be admitted into evidence. Is there anything
6 else to address, before we provide an opportunity for
7 closings?

8 (No verbal response)

9 CHAIRMAN GETZ: Hearing nothing, then
10 we'll begin with Ms. Hatfield.

11 MS. HATFIELD: Thank you, Mr. Chairman.
12 The OCA is pleased that New Hampshire's first commercial
13 scale wind farm is on line, and we're also pleased that
14 PSNH customers are benefiting from that energy, and also
15 receiving the benefits of the RECs. With respect to
16 whether the Commission should approve the proposed
17 contracts, the OCA defers to Staff, because we haven't
18 done any independent analysis beyond what Mr. Mullen has
19 done. Thank you.

20 CHAIRMAN GETZ: Thank you. Ms. Amidon.

21 MS. AMIDON: Thank you, Mr. Chairman.
22 Staff has conducted a review and analysis of the
23 contracts, and recommends that the Commission approve them
24 as a package, as was intended in the filing by PSNH. And,

1 we have nothing further. Thank you.

2 CHAIRMAN GETZ: Mr. Eaton.

3 MR. EATON: Thank you, Mr. Chairman. I
4 think the testimony of Mr. Wicker and Mr. Mullen support
5 the adoption of these agreements in the public interest
6 and satisfy to a substantial extent the requirements in
7 RSA 362-F:9. I would like to perhaps supplement
8 Mr. Wicker's response to Commissioner Below as far as the
9 ways that we can acquire RECs. We could also acquire RECs
10 through the ways we have produced them so far, either by
11 modification of our plants to use renewable resources,
12 expanding the efficiency of our hydro, or building and
13 acquiring new generation that qualifies for New Hampshire
14 RECs. We don't believe that this is excessive. I think
15 its -- Mr. Wicker's testimony provided that in a
16 reasonable projection of our needs, these RECs fit into
17 that at reasonable terms. And, that we would maximize the
18 benefit for our customers if there was any excess RECs
19 over what our needs were.

20 I'd like to request that the Commission
21 provide PSNH with the opportunity to respond to Mr.
22 Rodier, if Mr. Rodier files something next week, that we
23 be provided three business days to respond to what he
24 submits.

1 CHAIRMAN GETZ: All right. We will
2 provide that opportunity. And, if anybody, if Staff or
3 OCA seeks to respond, they will have that opportunity as
4 well.

5 Okay. At this time, we'll close the
6 hearing and take the matter under advisement. Thank you,
7 everyone.

8 (Whereupon the hearing ended at 12:22
9 p.m.)

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