

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

November 23, 2009 - 10:20 a.m.
Concord, New Hampshire

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RE: DE 09-091
PUBLIC SERVICE OF NEW HAMPSHIRE:
Reconciliation of Energy Services
and Stranded Costs.

PRESENT: Chairman Thomas B. Getz, Presiding
Commissioner Clifton C. Below
Commissioner Amy L. Ignatius

Sandy Deno, Clerk

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

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

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

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

ORIGINAL

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E X H I B I T S

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EXHIBIT NO.

D E S C R I P T I O N

PAGE NO.

4

1

Prepared Testimony of
Robert A. Baumann, including
attachments (05-01-09)

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Direct Testimony of
Richard C. Labrecque, including
attachments (05-01-09)

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Direct Testimony of
William H. Smagula, including
attachments (05-01-09)

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Direct Prefiled Testimony of
Kenneth E. Traum, including
attachments (10-19-09)

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Direct Testimony of
Michael D. Cannata, Jr., including
attachments (10-19-09)

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Stipulation and Settlement Agreement
re: DE 09-091 (11-20-09)

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1 P R O C E E D I N G

2 CHAIRMAN GETZ: Okay. Good morning.

3 Apologize for the delay. We'll open the hearing in docket
4 DE 09-091. On May 1, 2009, Public Service Company of New
5 Hampshire filed testimony and schedules in support of its
6 proposed reconciliation of revenues and costs associated
7 with its Energy Service Charge and Stranded Cost Recovery
8 Charge for calendar year 2008. An order of notice was
9 issued on July 6 scheduling a prehearing conference that
10 was held on July 23. Subsequently, a secretarial letter
11 was issued approving a procedural schedule culminating in
12 the hearing this morning. And, I'll note that a
13 settlement was filed in the proceeding on November 20th.

14 Can we take appearances please.

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

18 CHAIRMAN GETZ: Good morning.

19 MS. HATFIELD: Good morning,
20 Commissioners. Meredith Hatfield, for the Office of
21 Consumer Advocate, on behalf of residential ratepayers.
22 And, with me is Ken Traum.

23 CHAIRMAN GETZ: Good morning.

24 MS. AMIDON: Good morning, Mr. Chairman.

1 My name is Suzanne Amidon. I'm here for Commission Staff.
2 And, with me today is Steve Mullen, who is the Assistant
3 Director of the Electric Division, and Michael D. Cannata,
4 Jr., who is our Staff expert in this docket.

5 CHAIRMAN GETZ: Good morning. How do
6 you propose to proceed, Mr. Eaton?

7 MR. EATON: To begin with, the parties
8 have agreed that we would premark the testimony that's
9 been filed by all the parties in this proceeding, and then
10 also mark the Settlement Agreement. Then, I propose to
11 put on a panel of Mr. Robert A. Baumann and Mr. William
12 Smagula to provide an explanation of the Settlement for
13 the Commission to review.

14 CHAIRMAN GETZ: Okay. Please proceed.

15 MR. EATON: I'd like to mark for
16 identification as "Exhibit 1" the prefiled Testimony of
17 Robert A. Baumann. That was filed on May 1st, 2009.

18 CHAIRMAN GETZ: So marked.

19 (The document, as described, was
20 herewith marked as Exhibit 1 for
21 identification.)

22 MR. EATON: I'd like to mark as "Exhibit
23 2" for identification the prefiled Testimony of
24 Mr. Richard Labrecque.

1 CHAIRMAN GETZ: It's so marked.

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

5 MR. EATON: And, for "Exhibit 3", I'd
6 like to mark for identification the prefiled Direct
7 Testimony of William H. Smagula.

8 CHAIRMAN GETZ: That will be marked for
9 identification as "Exhibit 3".

10 (The document, as described, was
11 herewith marked as Exhibit 3 for
12 identification.)

13 MR. EATON: As "Exhibit 4", I'd like to
14 mark the Prefiled Testimony of Kenneth Traum that was
15 filed on October 19th, 2009.

16 CHAIRMAN GETZ: So marked.

17 (The document, as described, was
18 herewith marked as Exhibit 4 for
19 identification.)

20 MR. EATON: And, --

21 MS. AMIDON: Mr. Chairman -- oh, I'm
22 sorry. I apologize.

23 MR. EATON: And, for "Exhibit 5" for
24 identification, I'd like to mark the prefiled Direct

1 Testimony of Michael J. Cannata.

2 CHAIRMAN GETZ: So marked.

3 (The document, as described, was
4 herewith marked as Exhibit 5 for
5 identification.)

6 MR. EATON: And, finally, as "Exhibit
7 6", I'd like to mark for identification the Settlement
8 Agreement that was filed under a cover letter from the
9 Consumer Advocate on November 20th, 2009.

10 CHAIRMAN GETZ: So marked.

11 (The document, as described, was
12 herewith marked as Exhibit 6 for
13 identification.)

14 MR. EATON: And, now I'd like to call to
15 the stand Mr. Robert A. Baumann and Mr. William H.
16 Smagula.

17 MS. AMIDON: Mr. Chairman, if I might
18 make minor corrections to Mr. Cannata's testimony? These
19 are minor changes, just for the record.

20 CHAIRMAN GETZ: Well, sure. A couple of
21 things. I guess the intention is not to have him testify
22 and adopt or --

23 MS. AMIDON: Well, Mr. Cannata is
24 available for questions, but he wasn't -- we did not

1 intend him to take the stand to testify and adopt. And,
2 these are minor changes.

3 CHAIRMAN GETZ: And, I guess there's
4 also a question with respect to marking. In the cover
5 letter, it talks about a "confidential addendum". Should
6 that be marked separately or what do you propose in terms
7 of admitting or proposing exhibits?

8 MS. AMIDON: Right. I would propose to
9 identify the confidential portions of Mr. Cannata's
10 testimony, with the number given to his testimony and with
11 the letter "C" to indicate that that portion of the
12 testimony is confidential.

13 CHAIRMAN GETZ: Is that part of the
14 package that we got on October 19th? I'm just trying to
15 understand from the cover letter.

16 MS. AMIDON: Mr. Chairman, there was --

17 CHAIRMAN GETZ: It was filed separately?

18 MS. AMIDON: The testimony itself is not
19 confidential. So, I would say what you received on
20 October 19th is not confidential. There is confidential
21 material in the record, in that I believe there is a data
22 request response to which Mr. Cannata referred in his
23 testimony that is confidential or for which PSNH has
24 requested confidential treatment.

1 CHAIRMAN GETZ: And, I guess, though,
2 then it's really an issue of whether you're going to seek
3 to admit that material?

4 MS. AMIDON: I don't believe we are, Mr.
5 Chairman.

6 CHAIRMAN GETZ: Okay. So, unless and
7 until that's sought for admission, then we won't need any
8 marking.

9 MS. AMIDON: That seems a good solution
10 to the problem. Thank you.

11 CHAIRMAN GETZ: Okay. All right. Thank
12 you. Well, why don't you give us the changes for the
13 record.

14 MS. AMIDON: Well, first of all, as I
15 indicated in my appearance statement, it's "Michael D.
16 Cannata, Jr.", and my cover letter indicated it was
17 "Michael J. Cannata". But, on Page 20, if you look at
18 Line 15, the word "tot", t-o-t, should be the word "to",
19 t-o. And, if you refer to the last page of Mr. Cannata's
20 testimony, which is Page 27, at Line 3, "Tech Set 02",
21 there was no data request made or responded to in
22 connection with a second technical session. So, Lines 3
23 and 4 should be deleted.

24 CHAIRMAN GETZ: Okay.

1 MS. AMIDON: And, thank you.

2 CHAIRMAN GETZ: All right. Thank you.

3 Anything else?

4 (No verbal response)

5 (Whereupon Robert A. Baumann and

6 William H. Smagula were duly sworn and

7 cautioned by the Court Reporter.)

8 ROBERT A. BAUMANN, SWORN

9 WILLIAM H. SMAGULA, SWORN

10 DIRECT EXAMINATION

11 BY MR. EATON:

12 Q. Mr. Baumann, would you please state your name for the
13 record.

14 A. (Baumann) My name is Robert Baumann.

15 Q. For whom are you employed?

16 A. (Baumann) I'm the Director of Revenue Regulation and
17 Load Resources for Northeast Utilities Service Company.
18 We provide services to all the operating subsidiaries
19 of Northeast Utilities, including Public Service
20 Company of New Hampshire.

21 Q. Did you -- have you ever testified before this
22 Commission?

23 A. (Baumann) Yes.

24 Q. Did you prepare testimony for this proceeding that's

- 1 been marked as "Exhibit Number 1?"
- 2 A. (Baumann) Yes.
- 3 Q. And, do you have any corrections to make to that?
- 4 A. (Baumann) No.
- 5 Q. And, is it true and accurate to the best of your
- 6 knowledge and belief?
- 7 A. (Baumann) Yes.
- 8 Q. And, did you respond to certain data requests in this
- 9 proceeding?
- 10 A. (Baumann) Yes.
- 11 Q. And, are those accurate to the best of your knowledge
- 12 and belief?
- 13 A. (Baumann) Yes, they are.
- 14 Q. Mr. Smagula, could you please state your name for the
- 15 record.
- 16 A. (Smagula) My name is William H. Smagula.
- 17 Q. And, what is your position and your employer?
- 18 A. (Smagula) I'm employed by Public Service of New
- 19 Hampshire, and my position is Director of Generation
- 20 for Public Service Company.
- 21 Q. And, have you ever testified before this Commission?
- 22 A. (Smagula) Yes, I have.
- 23 Q. Did you have testimony prepared for this proceeding?
- 24 A. (Smagula) Yes.

- 1 Q. And, has that been marked as "Exhibit Number 3"?
- 2 A. (Smagula) Yes.
- 3 Q. And, do you have any corrections to make to that
- 4 testimony?
- 5 A. (Smagula) No, I do not.
- 6 Q. Is it true and accurate to the best of your knowledge
- 7 and belief?
- 8 A. (Smagula) Yes, it is.
- 9 Q. And, did you respond to data requests in this
- 10 proceeding?
- 11 A. (Smagula) Yes, I did.
- 12 Q. Mr. Baumann, do you have in front of you the
- 13 Stipulation and Settlement Agreement that was submitted
- 14 to the Commission on November 20th, 2009 and has been
- 15 marked as "Exhibit 6"?
- 16 A. (Baumann) Yes.
- 17 Q. Could you briefly summarize what's in the Settlement
- 18 Agreement?
- 19 A. (Baumann) Certainly. I'll just summarize the
- 20 settlement terms for the Commission. There's about
- 21 six, six items that I'll just briefly talk about. The
- 22 first is that PSNH and Staff recommend that the
- 23 replacement power costs for an outage at Merrimack 2 be
- 24 recovered by PSNH. And, the OCA did not oppose this in

1 order to reach a settlement and resolve the issues in
2 this docket. Item Number 2 is the Settlement calls for
3 the parties and the Staff agree that there would be an
4 opportunity to review PSNH's actions to recover any
5 costs or obtain any additional value from third parties
6 related to this outage, the Merrimack 2 outage. And,
7 it would be -- it would encompass a review of any
8 investigations or related investigations by PSNH or a
9 third party. And, the result of the effort to recover
10 these costs, by either PSNH's insurance companies or
11 directly from vendors.

12 The third item is that PSNH agrees not
13 to seek recovery of \$15,000 related to replacement
14 power costs at two individual outages at the Schiller
15 combustion turbine. In addition, PSNH agrees not to
16 recover \$45,000 associated with a hydro outage at the
17 Jackman facility. That \$60,000 in total, upon
18 acceptance of this Stipulation and Settlement, would be
19 credited against ES costs in the next reconciliation.

20 The fourth item is with respect to the
21 outage at Jackman, which was a \$45,000 replacement
22 power cost that PSNH has agreed not to recover. To the
23 extent PSNH can, and we certainly do plan on
24 aggressively going after any damages, to the extent

1 that we get any dollars from that, the first 45,000 of
2 recovered damages would be applied against the initial
3 45,000 that we have sought not to recover, and any
4 recovery after that would be credited to customers from
5 that outage.

6 The fifth item in the Settlement Terms
7 dealt with the coal inventory. And, the coal
8 inventory, for various reasons, has gotten rather
9 large. And, PSNH will -- certainly has agreed to take
10 steps to gradually reduce its inventory. And, we would
11 be -- we will be providing, per this settlement, a
12 schedule regarding the gradual reduction to its coal
13 inventory in its next Energy Service reconciliation
14 filing.

15 And, lastly, the Settlement, within the
16 Settlement Agreement, Mr. Cannata, on behalf of the
17 Staff, had numerous recommendations that PSNH has
18 agreed to adopt. And, PSNH has also agreed to
19 establish a protocol for the transmission and
20 distribution workers as they perform activities at
21 substations that are attached to or contiguous with the
22 PSNH generating units.

23 So, those are the six kind of summary
24 areas that are part of the Settlement Terms that we

1 present to you Commissioners today. Thank you.

2 Q. Mr. Smagula, would you be able to respond to questions
3 concerning Mr. Cannata's recommendations, if the
4 parties or the Commissioners have questions about those
5 recommendations?

6 A. (Smagula) Yes. Yes.

7 Q. And, you could also explain about the outages that are
8 part of the Settlement Terms?

9 A. (Smagula) Yes.

10 MR. EATON: Thank you. I have no
11 further questions on direct.

12 CHAIRMAN GETZ: Thank you. Ms.
13 Hatfield.

14 MS. HATFIELD: Thank you, Mr. Chairman.
15 Good morning, Mr. Baumann.

16 WITNESS BAUMANN: Good morning.

17 CROSS-EXAMINATION

18 BY MS. HATFIELD:

19 Q. I believe that you just testified that, if the
20 Commission adopts the Settlement Agreement, that the
21 \$60,000 that PSNH has agreed not to seek recovery of
22 could be credited to customers in the next
23 reconciliation docket, is that correct?

24 A. (Baumann) That's correct.

1 Q. Is it possible, if the Commission approves this
2 Settlement in time, that that amount could be credited
3 to customers in the 2010 Energy Service rate?

4 A. (Baumann) Yes.

5 Q. So, does it just depend on the timing?

6 A. (Baumann) Well, I used the reconciliation docket. When
7 we file that rate, we will reconcile some actual costs.
8 So, I was really planning on refunding it beginning
9 January 1st of next year.

10 Q. Thank you. Good morning, Mr. Smagula.

11 A. (Smagula) Yes. Good morning.

12 Q. Just one question about the coal inventory part of the
13 Settlement that appears on Page 4. The language states
14 that "PSNH will take steps to gradually reduce its
15 inventory to a level that is close to its target
16 inventory level." Is the target inventory level the
17 45-day amount of coal?

18 A. (Smagula) Yes. I'm trying to find my notes on that.
19 But, yes, that's correct. That was the amount that we
20 had used as a reference volume, and that will be what
21 we will be seeking to try to move toward, yes.

22 MS. HATFIELD: Thank you. No further
23 questions. Thank you.

24 CHAIRMAN GETZ: Thank you. Ms. Amidon?

1 MS. AMIDON: Staff has no questions.

2 Thank you.

3 CHAIRMAN GETZ: Commissioner Below.

4 BY CMSR. BELOW:

5 Q. Just what is the current inventory level or the last
6 time you inventoried it, how many days approximately?

7 A. (Smagula) The inventory level I have in tonnage, right
8 now is about 500 -- a little over 500,000 tons. And,
9 our -- which is about 300,000 over what we had
10 identified as our target inventory.

11 Q. So, it's roughly, it's a bit more than double --

12 A. (Smagula) Yes.

13 Q. -- your target. So, that would suggest there's over a
14 90-day inventory?

15 A. (Smagula) That's correct.

16 CMSR. BELOW: Okay. Thank you.

17 CHAIRMAN GETZ: Commissioner Ignatius.

18 CMSR. IGNATIUS: Thank you.

19 BY CMSR. IGNATIUS:

20 Q. I've forgotten whether it was Mr. Baumann or
21 Mr. Smagula for this question. But, in the Settlement
22 Agreement, you state that you're "agreeing to adopt
23 Mr. Cannata's recommendations in Section II.A."

24 A. (Smagula) Yes.

1 Q. And, then, just a moment ago testified that you would
2 also "establish a protocol for transmission and
3 distribution workers performing activities in
4 substations containing generating units"?

5 A. (Smagula) Yes.

6 Q. What I wanted to be clear is that, in Section II.A of
7 the Settlement Agreement I counted at least ten
8 different recommendations beyond the disallowance
9 issues. And, is that -- are all of those items being
10 agreed to by PSNH?

11 A. (Smagula) Yes.

12 Q. And, are there dates established or discussions going
13 on between the Company and the parties on when -- when
14 those various reports or initiatives would be
15 completed?

16 A. (Smagula) I believe in the Agreement there are some
17 references as to when a number of these, if not all of
18 them, are due. But the -- in the past, when a specific
19 date was not identified, we generally provide a
20 complete response to those in filings provided in the
21 second quarter of the year.

22 Q. All right. And, if for some reason reports can't be
23 completed by that time or there's something that takes
24 more to do, I assume you would be in communication with

1 the Staff and the OCA on why, on what you think the
2 schedule will be for completion of those?

3 A. (Smagula) Yes. If, at the time of that report in the
4 second quarter, if it wasn't complete, we would
5 identify why and we would identify the actions we are
6 taking in order to complete it, and it would be
7 thorough.

8 CMSR. IGNATIUS: All right. Thank you.

9 CHAIRMAN GETZ: Thank you.

10 BY CHAIRMAN GETZ:

11 Q. Mr. Smagula, a question about the -- well, clearly,
12 you're taking steps to reduce the coal inventory.

13 A. (Smagula) Uh-huh.

14 Q. And, it's not an issue related to the calendar year
15 2008. But do you have any update on the recent coal
16 train derailment, what effects, if any, that that would
17 have?

18 A. (Smagula) Well, there were no effects. Public Service
19 doesn't take possession of the coal until it's
20 delivered on our property. So, the coal that was lost
21 due to the seven car derailment was -- is no
22 responsibility of us or our customers. That is
23 possession of the rail company, as is the situation
24 with the cars. We don't own the cars or the coal. So,

1 those costs don't affect us, and, in fact, contribute
2 in a positive way to our over-inventory situation.
3 Because, once the coal is spilled on the ground, it's
4 considered contaminated and we don't take possession of
5 it.

6 Q. And, what's the status, if you know, of repair of the
7 line?

8 A. (Smagula) That's all been repaired. And, it was

9 repaired within a few days of the incident. And, I
10 believe, from newspaper reports, as to the cause,
11 whether it's the cars or the rail bed, that will take a
12 number of months to resolve by the National Surface
13 Transportation Board.

14 CHAIRMAN GETZ: Thank you. Redirect,
15 Mr. Eaton?

16 MR. EATON: Just to clarify.

17 REDIRECT EXAMINATION

18 BY MR. EATON:

19 Q. Mr. Baumann, concerning the \$60,000 that PSNH has
20 agreed not to recover at this time, in what docket will
21 that be reflected? Will it be next year's
22 reconciliation or in the proceeding to set a rate for
23 2010?

24 A. (Baumann) Well, to the extent we would get a Commission

1 order in time for the rate, we would not hesitate to
2 put it in the rate for 01/01/2010.

3 MR. EATON: Thank you. That's all I
4 have on redirect.

5 CHAIRMAN GETZ: Anything further for
6 these witnesses?

7 MR. MULLEN: Can I just clarify that one
8 again, clarify to the clarifying answer?

9 WITNESS BAUMANN: Please clarify.

10 RECROSS-EXAMINATION

11 BY MR. MULLEN:

12 Q. If you include that in the 2009 reconciliation, that
13 will impact any over or under collection that gets
14 reflected in the 2010 rates, is that correct?

15 A. (Baumann) To the extent you can get it into the
16 reconciliation, yes.

17 Q. So, it will probably appear to some extent in both. It
18 will show up in the 2009 reconciliation, which gets
19 carried forward into the 2010 calculation of the rate?

20 A. (Baumann) Yes.

21 MR. MULLEN: Okay. Thank you.

22 CHAIRMAN GETZ: Anything further for the
23 panel?

24 (No verbal response)

1 CHAIRMAN GETZ: Hearing nothing, then
2 the witnesses are excused. Thank you, gentlemen.

3 WITNESS SMAGULA: Thank you.

4 CHAIRMAN GETZ: And, I understand it
5 that there will be no further witnesses?

6 (No verbal response)

7 CHAIRMAN GETZ: So, with that, is there
8 any objection to striking identifications and admitting
9 the exhibits into evidence?

10 (No verbal response)

11 CHAIRMAN GETZ: Hearing no objection,
12 they will be admitted into evidence. But Commissioner
13 Ignatius has some questions I believe for the Company
14 about the motions for confidentiality.

15 CMSR. IGNATIUS: Thank you, Mr.
16 Chairman. Mr. Eaton, and others if you'd like to comment,
17 I'd like a little more explanation on protect order
18 requests that have been filed and not yet acted on by the
19 Commission. On July 20th, three separate motions were
20 filed by PSNH in response to data requests. And, I think
21 the materials submitted have been held in confidence
22 pending final resolution of this. But they allege reasons
23 why they shouldn't be publicly disclosed, but I'd like a
24 little more explanation, if you will. The three motions,

1 and you can do them separately, are to protect information
2 regarding the combustion turbine costs, and you state that
3 that is "competitive commercial information that should be
4 protected". Another is on Newington Station costs, and
5 allege that it "has an impact on the decision-making
6 process that PSNH uses to determine whether to purchase
7 supplemental power or to update Newington Station." And,
8 the third is to protect five year capital and O&M budgets,
9 which you state "will disclose when major capital and
10 maintenance outages are planned to take place." And, I
11 guess that has to do both with the timing and with the
12 actual costs of those outages.

13 So, in any order that is easiest for
14 you, can you explain why that needs to be protected, what
15 exactly it is that is to the disadvantage of the Company
16 or its ratepayers that would require us to find that the
17 balance is in favor of nondisclosure?

18 MR. EATON: I'll start off with the
19 Newington Station costs. Newington is kind of a
20 bellwether of PSNH's production. It's often operated on
21 the margin. And, our personnel are deciding from time to
22 time whether to make purchases or to run Newington,
23 depending upon market costs. And, we think that, if this
24 were known and made public, players in the market could be

1 able to time their offers and would have a competitive
2 disadvantage over PSNH with respect to that, and we may
3 not get the lowest price for purchased power. If they
4 knew that Newington cost \$39 to run, they would offer
5 38.99 for purchased power, and PSNH would not get the very
6 best price it could for supplemental power. It's a plant
7 that doesn't run all the time. It doesn't run much at all
8 now. But the -- it's characteristically been a hedge
9 against higher costs that, instead of buying on the
10 market, we would run Newington and save customers money.

11 With respect to the five year capital
12 and O&M budgets, those capital expenditures tell when PSNH
13 will be making major changes to its plants and when it
14 would be in the market for purchased power. We
15 customarily request protective treatment for our major
16 medical -- major maintenance outages in the context of the
17 docket, which sets the rate into the future. And, this is
18 more of setting the -- of a longer term look at when our
19 plants would be out and when we would be in the market for
20 more supplemental power than otherwise. And, therefore,
21 the market would know when we're looking for a great deal
22 of power and therefore have an advantage over our
23 negotiators of those, of those purchases.

24 CMSR. IGNATIUS: In that case, is the

1 request to protect the timing of the planned outages or
2 timing and cost of operating the plants?

3 MR. EATON: I would say it's more the
4 timing. And, so, the response could be -- could be
5 redacted to remove the actual scheduling of when those
6 capital expenditures would be made.

7 (Atty. Eaton conferring with Mr.
8 Labrecque.)

9 MR. EATON: The combustion turbines
10 participate in the New England market. And, to the extent
11 that competitors and other market players know what our
12 combustion turbine costs are, they would understand some
13 of our bidding practices and philosophies with respect to
14 those plants. And, therefore, PSNH would not be on the
15 same footing as other participators in the market, where
16 their costs of their plants are not publicly available, at
17 least on a forward-looking basis, and on a traditional
18 basis as well.

19 CMSR. IGNATIUS: But let me ask you to
20 clarify. As I read the motion, it's for the fixed and
21 variable costs of the five combustion turbines, the
22 turbines alone. It's not an all-in price for the
23 generating units. So, why is disclosure of one component
24 of the total cost to operate put you at a disadvantage?

1 You still -- a competitor can't, from that one item, know
2 what your all-in cost is.

3 MR. EATON: It's a major portion of the
4 cost, as far as capital and fuel, and those plants are
5 more often participating on the margin, when the bidding
6 is really more critical. If we're bidding in base load
7 plants, those plants will probably run anyway because
8 their costs are below what the margin is. But it's -- the
9 combustion turbines are really bid when there are or can
10 be used during times of high cost, and, therefore, to the
11 extent that other participants know what our costs are,
12 they would have an advantage over us, and our plants would
13 not -- would not be accepted for the dispatch on the next
14 day.

15 (Atty. Eaton conferring with Mr.
16 Labrecque.)

17 MR. EATON: Yes. Those are also
18 separate units. The combustion turbine is actually a

19 single generator located at Schiller or located at
20 Merrimack. They are peaker plants. And, they operate
21 much like a jet engine. But Merrimack Station would run
22 80 percent of the time; the Merrimack combustion turbines
23 would run just a few hours a year, just during peak
24 periods. So, it is a separate generating unit. I'm sorry

1 if I was confusing it. It's how you describe a single
2 generating unit that's located, and there are five of
3 them, but they're distinct generating units that operate
4 independently of the coal plant or the wood plant at
5 Schiller and independent of the two coal-fired plants at
6 Merrimack Station.

7 CMSR. IGNATIUS: And, the request also
8 says that you're asking for protection -- or, I'm sorry,
9 the data request asked for the Forward Capacity Market
10 value associated with each of those five combustion
11 turbines. I don't know if that's something that's
12 routinely disclosed or routinely protected, do you know,
13 at the ISO level, what the Forward Capacity Market values
14 are?

15 (Atty. Eaton conferring with Mr.
16 Labrecque.)

17 MR. EATON: I believe that that is
18 public information what the Forward Capacity Market
19 payments are. The price is known. That's a public price.
20 And, you multiply it by the megawatts that are represented
21 by those units, you would get -- you'd get a value of what
22 the Forward Capacity value is for those plants. So, that
23 probably isn't -- doesn't need protection.

24 CMSR. IGNATIUS: And, your motion may

1 not have meant to include that, it was really in the data
2 request. So, that's a helpful clarification. Thank you.

3 CHAIRMAN GETZ: Does anyone else have
4 anything on the confidentiality issues, before we have
5 opportunity for closing? Ms. Hatfield.

6 MS. HATFIELD: Thank you, Mr. Chairman.
7 We appreciate Chairman Ignatius's questions about this
8 issue. And, while we don't oppose any of these motions,
9 we would like to note that it is the hope of the OCA that,
10 in the future, if PSNH could provide redacted responses in
11 all cases, because we do think it's difficult for parties,
12 who might want to contest a request for confidential
13 treatment, if they don't have any part of a response, it's
14 difficult for them to be able to see exactly what's been
15 redacted. And, I do think that generally that is the
16 practice for parties to file as much of the information
17 publicly as possible and to be very careful and limited in
18 the redaction. Thank you.

19 CHAIRMAN GETZ: Ms. Amidon?

20 MS. AMIDON: The Staff doesn't oppose
21 any of the motions for confidential treatment, especially
22 as clarified by Attorney Eaton today.

23 CHAIRMAN GETZ: All right. Then,
24 opportunities for closing statements. Ms. Hatfield.

1 MS. HATFIELD: Thank you, Mr. Chairman.
2 I believe I just misspoke, and I should have said
3 "Commissioner Ignatius". So, thank you. The OCA supports
4 the Commission approving the Settlement Agreement, because
5 we think it's a fair resolution of all of the issues in
6 the case. And, we wish to thank the Commission for
7 allowing the parties additional time in order to file a
8 late settlement. Those extra few days were very helpful
9 in reaching our agreement. Thank you.

10 CHAIRMAN GETZ: Thank you. Ms. Amidon.

11 MS. AMIDON: I would concur with what
12 Attorney Hatfield just said, and I want to say I
13 appreciate the way that the Company and the OCA worked
14 with Staff to develop a settlement agreement in this
15 matter. And, we urge the Commission to accept the
16 Settlement Agreement.

17 CHAIRMAN GETZ: Okay. Thank you. And,
18 Mr. Eaton.

19 MR. EATON: Thank you, Mr. Chairman. I
20 appreciate the work that all the parties did to come to a
21 resolution, especially during a period of time when we're
22 all very busy with several dockets going on
23 simultaneously. And, I thank the Commission for giving
24 the opportunity to file that Settlement Agreement late.

1 We believe it results in a just and reasonable result for
2 the costs that were incurred during 2008.

3 And, finally, I think there's something
4 that will be coming up more often, and that is the
5 application of RSA 378:41. This is a proceeding that was
6 initiated by PSNH, and 378:41 requires that, within the
7 context of the hearing and the decision, the reference to
8 conformity of the decision with the least cost integrated
9 plan most recently filed and found adequate by the
10 Commission should take place.

11 So, in the context of the hearing, I'd
12 like to offer that the power supply arrangements and
13 procurement during 2008 was found, after investigation by
14 the expert for the Staff, was found to be reasonable.
15 And, in that context, I think that is probably the issue
16 that most directly relates to the recently filed least
17 cost plan. Again, I want to, as my memory of that plan,
18 as we described what we were doing in 2007, and we also in
19 that plan fully described the fact that this was a photo
20 image of what we were doing at that time, but wanted to
21 retain flexibility, especially in the area of, when you're
22 dealing with the markets, to be able to be flexible. And,
23 we may not have done exactly in 2008 as what we did in
24 2007, but there is a finding that's recommended to the

1 Commission that our power supply and procurement practices
2 were reasonable. And, I think that is the major item in
3 this case that relates to the least cost plan.

4 CHAIRMAN GETZ: All right. Thank you.
5 Anything further this morning?

6 (No verbal response)

7 CHAIRMAN GETZ: Hearing nothing, then --
8 sir?

9 MR. CUNNINGHAM: Mr. Chairman, members
10 of the Commission, my name is Arthur B. Cunningham. I'm
11 an attorney for the New Hampshire Sierra Club. Our
12 interest in this is not necessarily the ratepayers'
13 interest. Our interest in this is the confidentiality
14 issue that we've confronted in this case because of this
15 project in the Air Resources Council. And, PSNH, in that
16 case, has consistently blocked any effort that we have
17 made to obtain information with respect to the nature and
18 extent of this project. So, when we discovered the
19 existence of this docket, and we discovered it in the --
20 in a report we conducted with EPA on the nature and extent
21 of that project under 114, we became greatly concerned.

22 First of all, we know this is a
23 \$13.2 million hit to the ratepayers, this purchased power
24 hit. And, what I would suggest to you is that you defer a

1 decision on the settlement until the investigation is
2 done. I guess it's the old country business litigator in
3 me that says "we should be looking at and should be part
4 of this record each and every contract that establishes
5 what liability exists between Public Service of New
6 Hampshire and its contractors." Was there a general
7 contractor? And, is not the general contractor
8 responsible for the damage that was done to this turbine
9 replacement? What about the contracts with the
10 subcontractors? Who's responsible? I think the language
11 of those agreements and those contracts should be laid in
12 the record of this case and this docket before a decision
13 is made to pass the \$13.2 million onto the ratepayers.

14 Again, the old business litigator in me
15 would say "Where's the insurance policies? Let's look at
16 the insurance policies. Where are the insurance
17 investigations? What's happened on the insurance
18 investigations? Why aren't those documents part of this
19 record?"

20 You know, if we are to understand what
21 caused this damage to this big turbine, then we should
22 have this information in front of us. I would like to see
23 all the correspondence. I would like to see who's
24 admitting liability and who's denying liability. This is

1 just basic factual information regarding a major issue.

2 And, when Commissioner Ignatius asked
3 these confidentiality questions, it just rang a huge bell
4 with me. This is the same issue that we've been
5 confronted with, with Public Service of New Hampshire and
6 the Air Resources Council, when they have blocked every
7 legitimate effort we have made to find what they did there
8 and whether or not what they did there violated the Clean
9 Air Act.

10 So, one thing I know about this docket,
11 members of the Commission, one thing I know about this
12 docket is it should not be secret, it should not be
13 confidential. These facts and figures should be laid on
14 the record. And, one thing I'm absolutely sure of, it's
15 not the ratepayers' responsibility to eat this loss while
16 PSNH does this investigation.

17 So, let's clear the air on this
18 confidentiality question. Let's clear the air on what the
19 project is in that facility. Let's clear the air on what
20 caused this damage, so we can find out the truth about
21 this project.

22 I would suggest that --

23 CHAIRMAN GETZ: When you say "the truth
24 about the project", what do you mean?

1 MR. CUNNINGHAM: The nature and extent
2 of the project, Mr. Chairman, and the --

3 CHAIRMAN GETZ: Which project?

4 MR. CUNNINGHAM: -- and the damage that
5 was caused by the introduction of this foreign material
6 into the turbine when it started up. In other words, our
7 concern, like I said, our concern is whether or not this
8 project violated the Clean Air Act. We have real and
9 genuine concerns about that. And, now, it seems that --

10 CHAIRMAN GETZ: Is that a matter for us
11 to determine in this proceeding?

12 MR. CUNNINGHAM: It does not. What does
13 matter, however, is why don't we have the contracts in
14 front of us, so we -- at least we can look at the
15 liability issues? Why don't we have the investigation and
16 the insurance coverages in front of us? Why has this
17 process continued to be confidential? Why is the
18 information that was refused to be provided at the Air
19 Resources Council continue to be confidential in this
20 docket as well?

21 So, I think \$13.2 million for purchased
22 power is a very, very high price to pay before this
23 investigation is complete. So, my suggestion is, let's
24 get all this material in the record and defer -- have the

1 Commission defer the invest -- defer the decision on the
2 Settlement Agreement until there's a complete public and
3 exhaustive investigation of the project and the damage
4 that was done by this foreign object -- by this foreign
5 material.

6 CHAIRMAN GETZ: Okay. Well, I'll give
7 an opportunity for the parties to the proceeding to
8 respond to the public comment. Is there anything from the
9 parties?

10 MR. EATON: Mr. Chairman, there was a --
11 there was a disagreement on the \$13.2 million. And, both
12 sides were ready to litigate that as to whether it should
13 be -- it should be recovered. And, the parties agreed to
14 not go forward with that and to allow PSNH to recover
15 those costs. However, there also, the issue is open, and
16 there will be investigation as to how PSNH -- what actions
17 it took to recover those costs or obtain additional value
18 for customers related to the outage.

19 The exact cause, we know what caused the
20 damage, but the party responsible for that cause is not
21 known at this time. And, I think the investigation needs
22 to continue as it is now by the insurance people. And,
23 this will be looked at by the Staff and our actions will
24 be reviewed.

1 CHAIRMAN GETZ: Anyone else?

2 (No verbal response)

3 CHAIRMAN GETZ: All right. Then, --
4 Commissioner Ignatius.

5 CMSR. IGNATIUS: Let me just clarify.
6 Are there -- the motions for protective order that I
7 raised questions about before did not in any way involve
8 the issue that Mr. Cunningham has just raised, as far as I
9 understand it?

10 MR. EATON: That's true.

11 CMSR. IGNATIUS: Thank you. Has there
12 been a data request regarding the issues that
13 Mr. Cunningham raises that the Company has refused to
14 respond to?

15 MR. EATON: No. I believe we have --
16 Mr. Smagula's testimony addresses the outage in some
17 detail, and Mr. Cannata reviewed that and found that the
18 outage was not imprudent. And, therefore, it has been
19 investigated as far as whether PSNH was at fault in
20 causing the outage; Mr. Traum disagreed. And, we agreed
21 to settle that issue. But we have not refused to disclose
22 what we know about the outage, and a lot of that was done
23 in the face-to-face meetings in the technical sessions, as
24 to what we know about what happened, what steps we and our

1 contractors have taken since, and the remediation that
2 took place this past fall in replacing the blades that
3 were damaged in the new turbine.

4 CMSR. IGNATIUS: Thank you.

5 CHAIRMAN GETZ: Okay. Anything further?

6 (No verbal response)

7 CHAIRMAN GETZ: All right. Hearing
8 nothing, then we will close the hearing and take the
9 matter under advisement. Thank you, everyone.

10 (Whereupon the hearing ended at 11:08

11 a.m.)

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