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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

December 10, 2009 - 10:57 a.m. DAY 1
Concord, New Hampshire

RE: DE 09-180
PUBLIC SERVICE OF NEW HAMPSHIRE:
Proposed 2010 Default Energy
Service Rate.

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. TransCanada Power Marketing:
Douglas L. Patch, Esq. (Orr & Reno)

Reptg. Freedom Logistics & Halifax-American:
James T. Rodier, 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.
Steven E. Mullen, Asst. Dir. - Electric Div.

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

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WITNESS PANEL: ROBERT A. BAUMANN
 DAVID A. ERRICHETTI

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WITNESS: STEVEN E. MULLEN

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Direct examination by Ms. Amidon 180

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E X H I B I T S

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Testimony of Robert A. Baumann,
including attachments (09-24-09)

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Supplemental Prepared Testimony
of Robert A. Baumann (11-23-09)

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Updated filing to the initial
filing of September 24, 2009,
including actual data for
September & October, including
a Joint Technical Statement
of Robert A. Baumann and
David A. Errichetti (12-07-09)

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Rebuttal Testimony of Robert A.
Baumann and David A. Errichetti
(12-08-09)

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RESERVED (Re: Record request by
Mr. Rodier for a calculation...)

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RESERVED (Re: Newspaper article
regarding the reference to the
quote contained in Freedom Data
Request Number 1 by Mr. Murray)

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including attachments (12-02-09)

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Sept. 30, 2007, Pages 87 through 91

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Supplements to the PSNH Least
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Response to TransCanada-01,
Q-TC-013 by PSNH (10-29-09)
REDACTED - FOR PUBLIC USE

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Response to TransCanada-01,
Q-TC-013 by PSNH (10-29-09)
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Response to TransCanada 02,
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Article from The Wall Street
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Yergin and Robert Ineson (11-02-09)

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RESERVED (Request for memo
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RESERVED (Re: Either a substitute exhibit or an updated exhibit regarding the 2 percent change to 6 percent and the 5 percent change to 15 percent...)

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RESERVED (Re: Last 4 quarterly reports regarding the quarterly analyses comparing the actual market prices with what the blocks and strips were)
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RESERVED (Request to extend the migration history shown in Exhibit 7, Page 2 of 2 of Data Request OCA-01, Q-OCA-004 up to the most recently available data)

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Direct Testimony of Steven E. Mullen (12-02-09)

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1 P R O C E E D I N G

2 CHAIRMAN GETZ: Okay. Good morning
3 again. We'll open the docket in DE 09-180. On
4 September 24, 2009, Public Service Company of New
5 Hampshire filed a petition to establish its Default Energy
6 Service rate for effect with service rendered on or after
7 January 1, 2010. An order of notice was issued on
8 October 5 setting a prehearing conference for October 19.
9 On November 4, a secretarial letter was issued approving a
10 procedural schedule, culminating in a hearing on the
11 merits for this morning.

12 Can we take appearances please.

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

16 CHAIRMAN GETZ: Good morning.

17 MR. PATCH: Good morning. Douglas
18 Patch, from the law firm of Orr & Reno, on behalf of
19 TransCanada. And, with me this morning are Michael Hachey
20 and Cleve Kapala.

21 CHAIRMAN GETZ: Good morning.

22 MR. RODIER: Mr. Chairman, Jim Rodier
23 for Freedom Energy Logistics and Halifax-American Energy
24 Company.

{DE 09-180} [Day 1] {12-10-09}

1 CHAIRMAN GETZ: Good morning.

2 MR. RODIER: Thank you.

3 MS. HATFIELD: Good morning,
4 Commissioners. Meredith Hatfield, for the Office of
5 Consumer Advocate, on behalf of residential ratepayers.
6 And, with me from the Office is Ken Traum.

7 CHAIRMAN GETZ: Good morning.

8 MS. AMIDON: Good morning. Suzanne
9 Amidon, for Commission Staff. And, with me today is Steve
10 Mullen, who is Assistant Director of the Electric
11 Division.

12 CHAIRMAN GETZ: Okay. Good morning.
13 There's one preliminary matter that I wanted to address.
14 I understand there's a general understanding among the
15 parties on the way we're going to proceed this morning.
16 But, Mr. Patch, I want to ask a question about your motion
17 for administrative --

18 (Microphone noise)

19 MR. PATCH: Is that me? Sorry.

20 CHAIRMAN GETZ: -- your motion for
21 administrative -- to take administrative notice of the
22 record in docket DE 07-108. And, there's a couple of
23 issues. First, our Rule Puc 203.27 speaks to taking
24 administrative notice, "the relevant portion of the record

1 of other proceedings before the Commission." So, I was
2 looking for a response on are there portions of that
3 record that you're seeking to introduce? And, we have one
4 very practical concern is, to the extent that there's a --
5 there were a appeal of this case, would the expectation be
6 that the entire record from that docket be part of the
7 record on appeal? And, I guess the question would be,
8 what would the Supreme Court think of that? So, does it
9 take notice of the decision in that case, in which case,
10 you know, we really can just cite to it? Or, is there
11 testimony perhaps you wanted to use to impeach a witness?
12 So, if you could just maybe give us some parameters to
13 what the request is seeking.

14 MR. PATCH: Yes. Thank you, Mr.
15 Chairman. In the motion, I think we had -- well, first of
16 all, we had contacted the parties to see if there would be
17 any objection to that. And, as a result of those
18 contacts, we had limited it to the exhibits, the
19 transcript, and the orders. And, I don't think I'm
20 missing anything there. But, I think, from TransCanada's
21 perspective, the main thing is the plan itself, which was
22 filed, would have been an exhibit, there was a March 28th
23 supplement to the plan that was filed, March 28th of '08,
24 and then there are the Commission orders. And, those are

1 probably the primary things that we would have concern
2 with. So, if you were concerned about too large a record
3 going to the Supreme Court, in the event that were to
4 happen, I mean, those are the things that we care about
5 the most.

6 CHAIRMAN GETZ: Well, I guess that's the
7 one side of it, is how -- is what the practical impact
8 would be. And, I guess the other side of it is from the
9 perspective of the rule, the relevant portions. So, your
10 position essentially is all the exhibits, testimony,
11 transcript, and orders are the relevant portions?

12 MR. PATCH: Well, I mean, I guess I'm
13 modifying that position a little bit today so it would be
14 helpful to the Commission, by saying the plans, the filing
15 of March 28th in 2008, which was a supplemental to the
16 plan, and the orders of the Commission would be sufficient
17 from our perspective. The other parties might feel that
18 they needed more than that, I don't know. But -- and our
19 motion was broader than that, but I'd be happy to narrow
20 it down.

21 CHAIRMAN GETZ: Well, I guess the
22 question is, practically, why would you need the orders?
23 You can always cite to the orders. So, really, what
24 you're looking for is the plan and the supplement to the

1 plan?

2 MR. PATCH: Yes.

3 CHAIRMAN GETZ: Does anybody else have
4 anything on this issue?

5 MR. EATON: No, your Honor. I think --
6 I think that's acceptable to PSNH. And, --

7 CHAIRMAN GETZ: Well, I think you had
8 agreed to the larger set of documents, and I assume you --

9 MR. EATON: Yes. But those are -- I
10 just want, for clarification, those are Exhibits 1 and 2
11 in that docket, as my records reflect. The plan that was
12 filed in September is Exhibit 1 and the supplement is
13 Exhibit 2.

14 CHAIRMAN GETZ: All right. Anything
15 further on that?

16 (No verbal response)

17 CHAIRMAN GETZ: All right. Hearing
18 nothing, thank you, Mr. Patch. Mr. Eaton, are you ready
19 to proceed?

20 MR. EATON: Well, maybe we need some
21 clarification from the Commission. We had proposed and
22 told the other parties, we have not necessarily gotten
23 agreement, that we would go ahead with our direct
24 examination, using the initial filing and the November

1 11th testimony and the December 7th update. But we
2 reserve the rebuttal testimony, to put that on after
3 Mr. Hachey testifies, because the rebuttal testimony is
4 rebutting Mr. Hachey's testimony. And, we feel we should
5 be able to go after him. Of course, there would be
6 cross-examination of the rebuttal testimony. If that's
7 the way the Commission wants to proceed, but other parties
8 may want to comment on that proposal.

9 CHAIRMAN GETZ: Any objection to that?

10 MR. PATCH: Mr. Chairman, TransCanada
11 would object to that. It's our feeling that the three
12 testimonies are all so interrelated it would be difficult
13 for us on cross-examination to sort of limit our first
14 round of cross on the first testimony to just the first
15 two testimonies, and then save any questions that relate
16 to the rebuttal for the separate testimony by Mr. Baumann,
17 the panel or whatever. I just think, administratively,
18 it's inefficient to do it that way. So, we would object
19 to that.

20 CHAIRMAN GETZ: Mr. Rodier.

21 MR. RODIER: Mr. Chairman, I feel the
22 same way, but for perhaps a slightly different reason. If
23 Public Service puts in all their testimony -- by the way,
24 I have an agreement with Mr. Patch that I'm going to

1 cross-examine PSNH before he does. But my point is, if
2 all of their testimony is in, I can do all of my
3 cross-examination, and then, you know, if it's convenient
4 or -- in the situation, depending on how it looks, I would
5 then be able to leave. So, for my own like selfish point
6 of view, I would like to do it all at once, and then I can
7 decide how to apportion, you know, my time for the rest of
8 the day. Thank you.

9 CHAIRMAN GETZ: Thank you. Anyone else
10 have anything on this issue? Ms. Hatfield.

11 MS. HATFIELD: I'm just wondering if
12 there might be a way to satisfy both parties, and allow
13 cross on PSNH's panel on all three things that they filed,
14 the original, the update, and the rebuttal, but then allow
15 PSNH to go last, to call their panel again, if they need
16 to. Because I agree, it would be difficult to kind of
17 divide up the cross, because it is interrelated.

18 CHAIRMAN GETZ: Mr. Patch?

19 MR. PATCH: Mr. Chairman, could I just
20 say one more thing? And, that is, I mean, it's my
21 understanding that, generally, on direct, the Commission
22 at least frowns upon, you know, sort of leading the
23 witness and asking for a summary of their testimony and so
24 forth. So, the real point is to make the person available

1 for questions from the Commissioners or cross-examination.
2 So, I'm not sure what benefit there is because of that and
3 having him testify separately. Unless I'm
4 misunderstanding how the Commission generally approaches
5 this.

6 (Chairman and Commissioners conferring.)

7 CHAIRMAN GETZ: The way the testimony
8 developed in this case is it was not really consistent
9 with the November 4 secretarial letter, and that's partly
10 because of the bunch of motions that were filed and our
11 suspension of the proceeding. So, in the first instance,
12 there really wouldn't have been a rebuttal witness
13 contemplated. But, having said that, I think what we'll
14 do is allow cross, and then I think it's somewhat
15 consistent with what Ms. Hatfield suggested, allow
16 cross-examination in the first instance of the PSNH
17 witnesses on all of the testimony. And, then, to the
18 extent that you would like to recall your rebuttal witness
19 after the other witnesses have gone forward, then we'll
20 entertain your request.

21 MR. EATON: That's fair. Thank you.

22 CHAIRMAN GETZ: All right. Is there
23 anything else?

24 (No verbal response)

[WITNESS PANEL: Baumann|Errichetti]

1 CHAIRMAN GETZ: Hearing nothing, then,
2 Mr. Eaton.

3 MR. EATON: I would like to call Robert
4 A. Baumann and David A. Errichetti to the stand please.

5 (Whereupon Robert A. Baumann and
6 David A. Errichetti were duly sworn and
7 cautioned by the Court Reporter.)

8 ROBERT A. BAUMANN, SWORN

9 DAVID A. ERRICHETTI, SWORN

10 DIRECT EXAMINATION

11 BY MR. EATON:

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

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

15 Q. For whom are you employed and what is your position?

16 A. (Baumann) I'm employed by Northeast Utilities Service
17 Company, provides services to all the operating
18 companies of Northeast Utilities, one being Public
19 Service Company of New Hampshire. I'm the Director of
20 Revenue, Regulation and Load Resources. And, part of
21 my responsibilities is to provide testimony in support
22 for all the operating companies with respect to
23 generation and other rate recovery issues in all three
24 jurisdictions.

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[WITNESS PANEL: Baumann|Errichetti]

1 Q. Mr. Errichetti, would you please state your name for
2 the record.

3 A. (Errichetti) My name is David A. Errichetti. I work
4 for Northeast Utilities Service Company in the
5 Wholesale Power Contracts Department. And, my title is
6 Manager of Generation Resource Planning.

7 MR. EATON: Would it be helpful if Mr.
8 Mr. Errichetti moved his microphone a little bit closer?

9 CHAIRMAN GETZ: It would.

10 WITNESS ERRICHETTI: Better?

11 BY MR. EATON:

12 Q. Mr. Baumann, have you previously testified before this
13 Commission?

14 A. (Baumann) Yes.

15 Q. Mr. Errichetti, have you previously testified before
16 this Commission?

17 A. (Errichetti) Yes.

18 Q. Do you have in front of you a document under my cover
19 letter dated September 24th, 2009?

20 A. (Baumann) Yes.

21 Q. Could you please describe that document.

22 A. (Baumann) That document has a cover letter and my
23 testimony in support of the initially filed Energy
24 Service rate that would be effective January 1st, 2010.

{DE 09-180} [Day 1] {12-10-09}

[WITNESS PANEL: Baumann|Errichetti]

1 That rate specifically in the filing is 9.31 cents per
2 kilowatt-hour.

3 Q. Did you prepare testimony that's contained in that
4 document?

5 A. (Baumann) Yes.

6 Q. And, do you have any corrections to make to that
7 testimony?

8 A. (Baumann) No.

9 Q. And, is it true and accurate to the best of your
10 knowledge and belief?

11 A. (Baumann) Yes.

12 MR. EATON: Can we mark that as "Exhibit
13 1" for identification?

14 CHAIRMAN GETZ: So marked.

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

18 BY MR. EATON:

19 Q. Next, gentlemen, I'd like you to look at a document
20 that's entitled "Supplemental Prepared Testimony of
21 Robert A. Baumann". Do you have that in front of you,
22 Mr. Baumann?

23 A. (Baumann) Yes.

24 Q. When was that filed?

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[WITNESS PANEL: Baumann|Errichetti]

1 A. (Baumann) That was filed on November 23rd, 2009.

2 Q. And, could you please explain what's contained in that
3 document.

4 A. (Baumann) That document updated and highlighted one
5 specific topic, and that being migration, the current
6 migration levels and its impacts on the Energy Service
7 rate. And, it presented more detail in support of the
8 Company's proposal for the consideration of two
9 specific methods, a Method 1 and a Method 2, for
10 addressing the current rise in the Energy Service rate
11 associated only with migration.

12 Q. Is this testimony true and accurate to the best of your
13 knowledge and belief?

14 A. (Baumann) Yes.

15 Q. And, if you were asked those questions today on direct,
16 you'd answer correctly -- I mean, you'd answer the same
17 way?

18 A. (Baumann) Yes.

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

21 CHAIRMAN GETZ: So marked.

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

{DE 09-180} [Day 1] {12-10-09}

[WITNESS PANEL: Baumann|Errichetti]

1 BY MR. EATON:

2 Q. Now, gentlemen, I'd like you to look at a document that
3 has my cover letter of December 7th, 2009. I wondered
4 if you would recognize that document?

5 A. (Baumann) Yes. That document is an update to the
6 originally filed calculation of the Energy Service rate
7 from September 24th filing, and that was updated for
8 more current cost and price data, as well as it rolled
9 in a couple extra months of actual data, specifically
10 September and October actual data results that were not
11 available in September. And, in that document, there
12 is a proposed traditional Energy Service rate of 9.21
13 cents per kilowatt-hour.

14 Q. Do you have any corrections to make to that filing?

15 A. (Errichetti) Yes. Yes.

16 Q. Could you please explain those.

17 A. (Errichetti) In the technical statement, second to last
18 page of the filing, there is a table that shows forward
19 electricity prices for delivery in Massachusetts hub.
20 In the far right-hand column, the percent changes for
21 all hours, there was an error in the calculation, and
22 I'd like to just quickly run through the changes: The
23 "3.5" in January and February should have been "4.0".
24 The "negative 1.1" in May --

{DE 09-180} [Day 1] {12-10-09}

[WITNESS PANEL: Baumann|Errichetti]

1 Q. May I interrupt you?

2 A. (Errichetti) Yes.

3 MR. EATON: Mr. Chairman, would it be
4 better if we had these marked and the Clerk would make
5 these changes in the exhibit, because we haven't marked
6 them yet for identification?

7 CHAIRMAN GETZ: Yes, that would be fine.

8 MR. EATON: So, I'd ask that this filing
9 be marked as "Exhibit 2" for identification, subject to
10 the corrections that Mr. Errichetti is going to make.

11 WITNESS ERRICHETTI: Exhibit 3.

12 CHAIRMAN GETZ: Exhibit 3.

13 MR. EATON: Exhibit 3, I'm sorry.

14 CHAIRMAN GETZ: So marked.

15 (The document, as described, was
16 herewith marked as Exhibit 3 for
17 identification.)

18 BY MR. EATON:

19 Q. I'm sorry for interrupting, Mr. Errichetti. Could you
20 continue?

21 A. (Errichetti) You want me to finish, at least for the
22 discussion, putting this into the record?

23 Q. Yes.

24 A. (Errichetti) Okay.

{DE 09-180} [Day 1] {12-10-09}

[WITNESS PANEL: Baumann|Errichetti]

- 1 Q. Could you continue with your corrections to that table
2 on the next to the last page.
- 3 A. (Errichetti) All right. May was "negative 1.1", it
4 should be "negative 1.2".
- 5 Q. I'm sorry. Could you start from the beginning, because
6 the Clerk did not have the document in front of her.
- 7 A. (Errichetti) Okay. All right. January, the "3.5"
8 should be "4.0". February, the "3.5" should be "4.0".
9 March and April are fine. May, the "negative 1.1"
10 should be "negative 1.2". The "negative 2.2" should be
11 "negative 2.5". The "negative 1.0" should be "negative
12 1.2", that applies to the next month as well. The
13 "negative 1.5" in September should be "negative 1.7".
14 The "negative 4.5" should be "negative 4.8". The
15 "negative 5.7" should be "negative 6.0". The "2.6"
16 should be "3.0". And, the "negative 0.6" is good.
17 And, that was the only correction.
- 18 Q. With those corrections, do you adopt this exhibit and
19 the technical statement at the end as your testimony?
- 20 A. (Baumann) Yes.
- 21 A. (Errichetti) Yes.
- 22 Q. Thank you. And, finally, gentlemen, there are no other
23 corrections to make to Exhibit 3?
- 24 A. (Errichetti) No.

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[WITNESS PANEL: Baumann|Errichetti]

- 1 A. (Witness Baumann shaking head in the negative.)
- 2 Q. Finally, I'd like you to look at a document with a
- 3 cover letter signed by myself on December 8th, 2009.
- 4 Could you please describe that document.
- 5 A. (Baumann) This document is rebuttal testimony of myself
- 6 and Mr. Errichetti, in response to TransCanada's
- 7 testimony filed in this proceeding.
- 8 Q. And, is it true and accurate to the best of your
- 9 knowledge and belief?
- 10 A. (Baumann) Yes.
- 11 A. (Errichetti) Yes.
- 12 Q. Do you have any corrections to make to this testimony?
- 13 A. (Baumann) No, we don't.
- 14 CHAIRMAN GETZ: Gentlemen?
- 15 BY MR. EATON:
- 16 Q. So, let me ask again, are there any corrections to make
- 17 to the rebuttal testimony?
- 18 A. (Baumann) Is there a deletion?
- 19 Q. Yes.
- 20 A. (Baumann) Yes. Waiting for that shoe to drop.
- 21 Q. Could you explain what you would like to delete from
- 22 this testimony.
- 23 A. (Baumann) If you could turn to Page 5 please.
- 24 Q. Yes.

{DE 09-180} [Day 1] {12-10-09}

[WITNESS PANEL: Baumann|Errichetti]

1 A. (Baumann) At the bottom of the page, on the last
2 paragraph, in the middle of that paragraph, the
3 sentence that begins with "Indeed", and ends with
4 market". We'd like to strike that sentence from our
5 testimony.

6 Q. With that correction, do you adopt this as your own
7 testimony?

8 A. (Baumann) Yes.

9 A. (Errichetti) Yes.

10 MR. EATON: I'd like that marked as
11 "Exhibit 4" for identification.

12 CHAIRMAN GETZ: So marked.

13 (The document, as described, was
14 herewith marked as Exhibit 4 for
15 identification.)

16 MR. EATON: For the record, I'm showing
17 the Clerk the sentence that Mr. Baumann just described
18 that he would like stricken from his testimony.

19 CHAIRMAN GETZ: Thank you.

20 BY MR. EATON:

21 Q. Mr. Baumann, could you briefly describe what PSNH is
22 proposing for a Stranded -- I'm sorry, a Default Energy
23 Service rate for effect on January 1st, 2010.

24 A. (Baumann) What we have filed in the December 7th filing

{DE 09-180} [Day 1] {12-10-09}

[WITNESS PANEL: Baumann|Errichetti]

1 is a proposed Energy Service rate of 8.96 cents per
2 kilowatt-hour. Just to back up, the current rate today
3 is 9.03 cents. The September filing, the rate went to
4 9.31 cents per kilowatt-hour. And, then, in the
5 December filing, the comparable rate went to 9.21 cents
6 per kilowatt-hour, just slight modifications in some
7 costs and the sales levels. The 9.21 cents, we propose
8 to the Commission that two items be removed from that
9 9.21 cent rate, and be moved to the Stranded Cost
10 Recovery Charge and, ultimately, the TCAM charge.
11 Specifically, the two cost items we propose to move
12 would be \$12.5 million associated with the renegotiated
13 agreement with the former Bio-Energy facility, and
14 approximately \$1.4 million associated with VAR, V-A-R,
15 costs, uplift costs, that are currently being recovered
16 in the ES. And, we would propose, because they are
17 network reliability type of costs, that they should be
18 recovered in the TCAM. If you take those two items and
19 remove them from your -- from the proposed rate of 9.21
20 cents, it comes down to what we would propose to be
21 8.96 cents per kilowatt-hour.

22 This is what has been referred to as
23 "Method 2" in our testimony. And, it's a proposal to
24 recover the costs, these two particular costs, in what

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[WITNESS PANEL: Baumann|Errichetti]

1 we believe is the proper recovery mechanism. It was
2 really precipitated by the questions that were being
3 raised with the Energy Service rate as we've had
4 migration hit the PSNH system, and customers have begun
5 to choose an alternative supplier, we have seen, purely
6 because of migration, an increase in the Energy Service
7 rate. We then started scrubbing the numbers a little
8 closer and found these two items that we believe and we
9 propose to be moved today, to at least move the Energy
10 Service rate to a lower level where we believe it
11 should be at.

12 And, the Method 1 that we proposed to be
13 considered by the Commission was really a method that,
14 in simplicity, would identify a level of costs that was
15 created simply by migration and the energy rate
16 dropping. And, we believe that this was an unintended
17 consequence of restructuring and what has developed in
18 the rate setting process. But, in my -- in our updated
19 testimonies, we recommended that that issue continue to
20 be looked at in the near future. And, we were hopeful
21 that we could possibly, either in this docket or in a
22 separate docket, adjudicate that issue and discuss it
23 among all the parties, and bring forth to the
24 Commission a proposal in the future that might mitigate

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1 the migration impact on the Energy Service rate to a
2 position where we think would be more equally
3 beneficial to all customer classes.

4 We believe today that, because of
5 migration, the customers that have not migrated are
6 being unduly burdened with what I will call
7 "sustaining" the PSNH supply portfolio that is there
8 for supplying customers and they're in support of all
9 customers as a supply of last choice, if you will.
10 And, we believe there's a cost associated with that
11 that certain customers have been able to avoid because
12 of playing by the rules, if you will. But that those
13 costs are all now being borne by Energy Service
14 customers that remain with PSNH.

15 So, that's essentially our proposal.
16 And, you know, a deviation from what has been
17 traditionally filed with the Commission. We don't
18 think we could solve Method 1 in this proceeding, we
19 don't think there's enough time. We think it's far too
20 complicated. But we do propose at least to take a
21 small step forward in Method 2 by removing those two
22 items, specifically the Bio-Energy and the VAR support,
23 from the current rate. The SCRC would be increased
24 immediately on 01/01/10 with the ES. Whereas TCAM

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1 would be increased for VAR support on July 1, when we
2 change the TCAM rate. As a result of that, there will
3 be a slight underrecovery for six months in the TCAM
4 charge, because you would not be collecting any VAR
5 support in Energy Service beginning January 1st. But
6 then you would begin collecting it on July 1st of 2010,
7 with a six month underrecovery of approximately
8 \$700,000. Thank you.

9 Q. Would you briefly describe your rebuttal testimony.

10 A. (Baumann) Our rebuttal testimony that was filed on
11 behalf of myself and Mr. Errichetti really addresses
12 some points that were raised in the TransCanada
13 testimony that was filed in this docket. And, we filed
14 that testimony on December 8th, 2009, in response to
15 their testimony.

16 Q. Do you have anything to add to your testimony?

17 A. (Baumann) No.

18 Q. Mr. Errichetti?

19 A. (Errichetti) No.

20 MR. EATON: The witnesses are available
21 for cross-examination.

22 CHAIRMAN GETZ: All right. Thank you.

23 Mr. Rodier.

24 MR. RODIER: Thank you. Good morning.

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[WITNESS PANEL: Baumann|Errichetti]

1 WITNESS BAUMANN: Good morning, Mr.

2 Rodier.

3 WITNESS ERRICHETTI: Hello.

4 CROSS-EXAMINATION

5 BY MR. RODIER:

6 Q. Let me try to establish some basics here at the outset.
7 I heard you just say the proposed Energy Service rate,
8 I'll call it the "ES rate", I think you call it the "ES
9 rate" from time to time, don't you?

10 A. (Baumann) Yes.

11 Q. Okay. So, the ES rate, without the two adjustments
12 that you just described I think under Method 2, would
13 have been approximately -- would be approximately 9.2
14 cents per kilowatt-hour for 2010?

15 A. (Baumann) Right, 9.21 cents per kilowatt-hour.

16 Q. I said "approximately 9.2", okay? Now, one of the
17 major issues here that you talked about the migration,
18 that revolves around the relationship or the
19 differential between the Energy Service rate and the
20 market price, is that correct?

21 A. (Baumann) Yes.

22 Q. Okay. So, if the ES rate for 2010 is approximately 9.2
23 cents, would you agree with me, just for sake of
24 discussion, that we could estimate the market price for

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[WITNESS PANEL: Baumann|Errichetti]

1 2010 at approximately 8 cents per kilowatt-hour?

2 A. (Errichetti) I don't know how you connect the two.

3 Q. There is no connection. Let me just ask it this way
4 then. Would a market price for 2010 of 8 cents per
5 kilowatt-hour, would that be roughly correct to use for
6 our discussion here today?

7 A. (Errichetti) I don't know.

8 Q. Okay. So, if you don't know what the market price is,
9 how do we know that the Energy Service rate is above
10 the market price?

11 A. (Errichetti) In the calculation that we did to
12 approximate the Method 1, we modeled using the ES model
13 the cost to serve all the distribution load. And, we
14 estimated the marginal cost to serve that load at about
15 6.8 cents a kilowatt-hour at the PTF, which is low 7's
16 at the customer meter, not including risk, profit, that
17 sort of thing.

18 Q. Okay.

19 A. (Errichetti) So, I'm in the low 7's --

20 Q. Okay.

21 A. (Errichetti) -- with my model, which isn't a model of
22 retail pricing. It's just a model of the wholesale
23 market at the margin.

24 Q. Okay. That didn't include losses, is that correct?

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[WITNESS PANEL: Baumann|Errichetti]

- 1 A. (Errichetti) No. It does include losses from PTF to
2 the customer meter.
- 3 Q. Okay.
- 4 A. (Errichetti) It doesn't include the kind of risk
5 premiums that I would think a marketer builds in.
- 6 Q. So, if I said it's approximately 8 cents per
7 kilowatt-hour at retail for 2010, I wouldn't -- I
8 probably might even be a little high?
- 9 A. (Baumann) Not necessarily. It would depend on the
10 amount of premium that would be built in for risk, as
11 well as the profit levels that a third party may --
- 12 Q. Okay. So, then, let's go back and let's use your
13 number, with the caveats that you just used or stated
14 on the record, Mr. Errichetti. You said you're in the
15 "low 7's" at the customer's meter, excluding market
16 risk and something else?
- 17 A. (Errichetti) Profit.
- 18 Q. Profit. Okay. All right. Can I ask you to look at
19 Freedom Data Request Number 1. Not just the request,
20 but the request and the response. And, would you let
21 me know when you have it.
- 22 MR. RODIER: Mr. Chairman, would it be
23 possible to get some water? I don't know if that's a
24 custom that's changed over the years here.

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1 CHAIRMAN GETZ: We'll ask the Clerk when
2 she returns.

3 MR. RODIER: Thank you.

4 WITNESS BAUMANN: We have the data
5 request, Mr. Rodier.

6 BY MR. RODIER:

7 Q. Okay. And, is it the first response or is it the
8 second response?

9 A. (Baumann) Well, we have -- we have the first, and the
10 F-01, so that would be the second.

11 Q. Okay.

12 A. (Baumann) Is that what you were referring to, the
13 second response?

14 Q. Yes. Okay. So, let's just look at the second response
15 then.

16 A. (Baumann) Is this the response that says "no"?

17 Q. That's correct.

18 A. (Baumann) Thank you.

19 Q. Would you please read the question and the answer
20 please.

21 A. (Baumann) "Does PSNH agree with the following
22 statement: "Murray said PSNH rates are higher than
23 market rates because the Company locked into multiple
24 year contracts to buy power to meet the 40 percent of

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1 customer demand it historically hasn't been able to
2 satisfy with its own generation. Those contracts
3 extend through 2010, he said."

4 Q. And, your response was that --

5 A. (Baumann) "No", we don't agree.

6 Q. Okay. Let me just clarify then, when it seems to be
7 that Murray, and who is "Murray"? When we talk about
8 "Murray", who are we referring to?

9 A. (Baumann) Martin Murray is an employee of Public
10 Service Company of New Hampshire. He's in the
11 Communication Department with PSNH.

12 Q. Okay.

13 MR. EATON: Excuse me. Could Mr. Rodier
14 authenticate this statement, that it was said by Martin
15 Murray and where it was quoted?

16 CHAIRMAN GETZ: Mr. Rodier.

17 MR. RODIER: I think PSNH knows well
18 what its progeny is or providence is. But it was -- I
19 guess it was in the Union Leader. I mean, I'm
20 representing that that's a quote that was published in an
21 article in either the Union Leader or the Monitor. If
22 public Service has any information that that's not
23 something that was reported by the media, I'd be very
24 happy to hear it.

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1 CHAIRMAN GETZ: But it's your
2 representation that you composed this interrogatory or
3 data request based on a newspaper article that you
4 personally observed?

5 MR. RODIER: Sure. And, I'll tell you
6 what I'll do. I will go back and get the whole article,
7 and I will late file it with the Commission.

8 CHAIRMAN GETZ: Okay.

9 MR. RODIER: How would that be?

10 CHAIRMAN GETZ: That would be fine.

11 MR. RODIER: Okay.

12 BY MR. RODIER:

13 Q. Now, taking then this quote at face value, would it be
14 fair to characterize Mr. Murray's statement to the
15 media in the following way: That the reason that the
16 Energy Service rate is above the market price is
17 because PSNH locked into a purchase that would carry
18 through the year 2010, locked it in at a price that's
19 above market?

20 A. (Baumann) No. We don't -- We don't agree with this
21 statement.

22 Q. I'm asking you is that the -- I'm sorry, I didn't mean
23 to interrupt. But is that a fair characterization of
24 what he said?

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- 1 A. (Baumann) I'm not going to characterize what he meant
2 here. Mr. Murray is not a technical expert --
- 3 Q. Okay.
- 4 A. (Baumann) -- in this area. And, for me to try to
5 characterize something from a corporate communication
6 individual who talked to someone in the press, who got
7 quoted, I don't even know if the quote is accurate, to
8 tell you the truth.
- 9 Q. Okay. Whether he was quoted accurately, you mean?
- 10 A. (Baumann) I said "I don't know if the quote was
11 accurate." I don't even know where the quote is from.
- 12 Q. Did you or any of your subordinates contact him asking
13 for an explanation?
- 14 A. (Baumann) Not to my knowledge, no.
- 15 Q. Okay. Well, then, let's move on. And, you're saying,
16 your testimony is, what you're saying is that the ES --
17 the difference between an ES -- the ES rate and the
18 market price is not due to a bilateral purchase made,
19 locked in at a price for the purchase above current
20 market prices, the purchase being for the year 2010.
21 That's your testimony? That that's not the reason?
- 22 A. (Baumann) The Energy Service rate is at this time above
23 market.
- 24 Q. Right.

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[WITNESS PANEL: Baumann|Errichetti]

- 1 A. (Baumann) And, within the Energy Service rate, we have
2 a bundle of costs that relate to our own generation and
3 outside purchases, which at the time when they were
4 purchased was a small percentage of our requirement.
5 And, taken as a whole, that bundled cost, which is
6 resulting in our Energy Service rate, is above market
7 at this time.
- 8 Q. I'm trying to get at the reasons for it. Is one of the
9 reasons, at least can you concede one of the reasons is
10 this bilateral purchase for the year 2010?
- 11 A. (Baumann) Yes.
- 12 Q. Oh. Okay. So, we're here with the situation where
13 you've had all this migration as a result of ES being
14 above the market price, and part of this situation, at
15 least part of it is a result of a bilateral purchase of
16 energy above current market prices, is that correct?
- 17 A. (Baumann) That's one of many of the reasons, yes.
- 18 Q. Okay. Do you happen to know, can you quantify it at
19 all, what is the magnitude of these above-market costs
20 for this bilateral purchase for 2010?
- 21 A. (Errichetti) Well, that value changes daily as the
22 market changes, and the impact on the rate changes
23 daily as migration changes. So, at the time that those
24 purchases were entered into, they represented 2 percent

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1 of PSNH's forecasted need for 2010, and about 5 percent
2 of the amount of energy that needed to be bought to
3 manage the gap for 2010. Since that time, PSNH's sales
4 forecast has dropped 8 percent for 2010, and migration
5 has further eroded the amount of load needed to be
6 served in ES.

7 So, when you ask the question, we
8 entered into a bilateral purchase at a particular point
9 in time to manage an energy requirement at a future
10 point in time, and the market has since moved, and the
11 market moved down subsequently. It's a constant moving
12 target.

13 Q. Okay.

14 A. (Errichetti) But what we can say is that the price we
15 paid is higher than where the market is now. And, by
16 the end of 2010, they may not be.

17 Q. Did you pay about nine and a half cents per
18 kilowatt-hour for this energy that we're talking about?

19 A. (Errichetti) In that neighborhood.

20 Q. Okay. And, the current, would you agree with me -- was
21 that a block of energy, by the way?

22 A. (Errichetti) Meaning?

23 Q. Doesn't include capacity or ancillaries or --

24 A. (Errichetti) It's energy.

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[WITNESS PANEL: Baumann|Errichetti]

- 1 Q. It's energy only?
- 2 A. (Errichetti) Yes.
- 3 Q. Do you look at -- for example, do you get quote sheets
- 4 from energy brokers, like ICAP Energy?
- 5 A. (Errichetti) We receive those, and we also just follow
- 6 NYMEX.
- 7 Q. Okay. Now, I looked this morning, and you could buy a
- 8 block for 2010 for a little over six cents. Does that
- 9 sound about right to you?
- 10 A. (Errichetti) What time period?
- 11 Q. 2010.
- 12 A. (Errichetti) Peak? Off peak? All hours?
- 13 Q. All hours.
- 14 A. (Errichetti) You said "around six cents"? What was the
- 15 number?
- 16 Q. Well, I'll tell you what I'll do.
- 17 A. (Errichetti) I would have thought a little lower, for
- 18 around all hours.
- 19 Q. 2010, all hours, \$51.
- 20 A. (Baumann) Excuse me, Mr. Rodier. Is that for -- Is
- 21 that today, that document?
- 22 Q. Yesterday's, I think.
- 23 A. (Baumann) Yesterday's?
- 24 MR. RODIER: May I hand this to the --

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1 CHAIRMAN GETZ: Please.

2 MR. RODIER: Maybe this would be of
3 assistance to Mr. Errichetti.

4 MR. EATON: Could you say where it's
5 from?

6 BY MR. RODIER:

7 Q. Does this document look familiar, Mr. Errichetti?

8 A. (Errichetti) What you handed?

9 Q. Yes.

10 A. (Errichetti) It's the sort of thing I've seen, yes.

11 Q. Okay. This is -- I'll represent to you this is from
12 ICAP Energy. This was the quotes that they sent out
13 yesterday afternoon. And, you're familiar with ICAP
14 Energy?

15 A. (Errichetti) Yes.

16 Q. Do you ever purchase wholesale power through them, by
17 the way?

18 A. (Errichetti) Personally? Or NU?

19 Q. NU.

20 A. (Errichetti) Or PSNH?

21 Q. Any of the above.

22 A. (Errichetti) Yes.

23 Q. Okay. Would you look in the right-hand column, "NEPOOL
24 flat". Would you agree with me that's the average of

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[WITNESS PANEL: Baumann|Errichetti]

- 1 on peak and off peak? That's an "all hours" number?
- 2 A. (Errichetti) That's the price for all hours.
- 3 Q. "All hours" number. And, when you run your eye down
- 4 the "NEPOOL flat" column for calendar '10, what do you
- 5 -- what do you see for the entire year for the --
- 6 what's the quoted amount?
- 7 A. (Errichetti) "51.375".
- 8 Q. That's dollars per megawatt-hour.
- 9 A. (Errichetti) Yes.
- 10 Q. That would be 5.1 cents per kilowatt-hour?
- 11 A. (Errichetti) Yes.
- 12 Q. Okay. So, do you think that's representative of, this
- 13 ICAP quote, of what the market price, as we're here
- 14 today, is?
- 15 A. (Errichetti) As of yesterday afternoon or, really,
- 16 yesterday morning, yes.
- 17 Q. Okay.
- 18 A. (Errichetti) Not this morning.
- 19 Q. This is what you could buy it at?
- 20 A. (Errichetti) You could buy something. I don't know how
- 21 deep the market is.
- 22 Q. Okay.
- 23 A. (Errichetti) But you could buy hopefully something.
- 24 Q. Okay. This is -- Would you call this a "standard

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- 1 product"?
- 2 A. (Errichetti) This, what you're referring to here on the
3 ICAP sheet?
- 4 Q. Yes.
- 5 A. (Errichetti) Yes.
- 6 Q. It's not a one off individually negotiated deal like
7 you sometimes do. This is a -- what is it, a standard
8 30 megawatt block?
- 9 A. (Errichetti) No. It's -- I'm not sure what the minimum
10 block that gets traded at these prices.
- 11 Q. Okay.
- 12 A. (Errichetti) But it's 50 megawatts, 100 megawatts.
- 13 Q. Okay. So, all I'm trying to get at here is just some
14 basic facts. So, you bought at nine and a half for
15 2010 --
- 16 A. (Errichetti) We bought a number similar to this number
17 at the time that we bought it.
- 18 Q. Right.
- 19 A. (Errichetti) We did not pay more than what this sheet
20 said on the day we bought it, and we probably didn't
21 pay less. We bought at the market on the day.
- 22 Q. I fully agree. You paid nine and a half, and that
23 number now is around 5.1, is that correct?
- 24 A. (Errichetti) We paid -- it was around nine and a half

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[WITNESS PANEL: Baumann|Errichetti]

- 1 at the time.
- 2 Q. Okay. And, while we're at it, so I don't have to come
3 back to this, would you look out for calendar year
4 2015. And, do you see it?
- 5 A. (Errichetti) Yes.
- 6 Q. Okay. What is the price for a block of power, for a
7 block of energy in calendar year 2015?
- 8 A. (Errichetti) For what time period?
- 9 Q. A block for all hours for year 2015.
- 10 A. (Errichetti) All hours, it says "\$69.41".
- 11 Q. Okay. So, even in another five years, this is saying
12 that the price -- market price for energy only, that's
13 an important distinction, energy only is seven cents,
14 is that correct, what this sheet is saying?
- 15 A. (Errichetti) For all hour strip.
- 16 Q. Right. Yes.
- 17 A. (Baumann) Excuse me. Based on this chart, as of
18 yesterday, in the market, that's correct, Mr. Rodier.
- 19 Q. Okay.
- 20 A. (Errichetti) This morning, in the USA Today, they're
21 predicting a higher-than-average hurricane season for
22 2011 -- or, for 2010.
- 23 Q. Okay.
- 24 A. (Errichetti) That alone could dramatically change this

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[WITNESS PANEL: Baumann|Errichetti]

1 curve.

2 Q. I'm sure.

3 A. (Errichetti) And, also, I would be remiss if I didn't

4 remark that you've been looking at "all hours",

5 assuming that the purchase we made was for all hours.

6 That may or may not be a correct assumption.

7 Q. Okay. Now, I understand that you get your information

8 on forward market prices from USA Today or is it Time

9 Magazine that you get a quote, you quoted in a data

10 response, Mr. Baumann?

11 CHAIRMAN GETZ: Do you have a data

12 response that you're citing him to?

13 MR. RODIER: I don't have it with me.

14 BY THE WITNESS:

15 A. (Baumann) In TransCanada Set 2, Question 3, there is a

16 quote from Time Magazine, but I thought your question

17 was "did we refer to Time Magazine in relationship to

18 our pricing?" That's why we were confused.

19 BY MR. RODIER:

20 Q. Well, you used Time Magazine for the basis for your

21 natural gas forecast, didn't you?

22 A. (Errichetti) No. That's just -- That's just a piece of

23 public press --

24 Q. Oh.

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1 A. (Errichetti) -- that was about.

2 Q. Okay.

3 A. (Errichetti) Just like my quote from USA Today, I just
4 happened to be reading it at the motel this morning.
5 And, my reaction was "Oh, great. They're talking about
6 higher-than-normal hurricane activity for 2010. What's
7 that going to do to gas prices today?"

8 Q. Right.

9 A. (Baumann) Well, and, Mr. Rodier, while you're on this,
10 this request you just sent me to, now, if you go to
11 Page 2 of that request that's attached to the request,
12 there's a monthly Henry Hub spot price graph. And, if
13 you look at that graph, the price for a thousand cubic
14 feet of gas historically, from the beginning of '97,
15 has really been all over the place.

16 Q. Yes.

17 A. (Baumann) And, I think it accentuates what perhaps Mr.
18 Errichetti and I haven't eloquently put forth. And,
19 that is, as of yesterday, prices are what they are. As
20 of tomorrow, events in the world can drastically change
21 those prices.

22 Q. Right.

23 A. (Baumann) So, if you're looking out into 2015 at 60 to
24 70 cents a -- or, \$70 a megawatt-hour, that, tomorrow

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[WITNESS PANEL: Baumann|Errichetti]

1 or a week from tomorrow, that \$70 might be \$270.

2 Q. Sure. It could be --

3 A. (Baumann) We just don't know.

4 Q. It could be 50?

5 A. (Baumann) It sure could. And, if we had a crystal
6 ball, or if anyone had a crystal ball and knew what it
7 was going to be, then we probably would be working
8 somewhere else and making a lot of money.

9 Q. But at least we can agree, I think, that the numbers on
10 that ICAP sheet, that's what the pros are saying, that
11 their livings -- living are based upon making these
12 trades, that's what the market is saying it's worth in
13 2015?

14 A. (Errichetti) And, the exact same pros were saying
15 whatever we paid on the day that we bought back in
16 2006, '07, '08, this year, 2003, I mean, the pros
17 change their minds every day.

18 A. (Baumann) I'm not sure what you mean by "pro".

19 Q. Okay. Look, I appreciate that clarification. And, I
20 heard what you said. I want to move on here since time
21 is precious. I guess what I'm trying to get at here,
22 Mr. Baumann, you don't think we're in a situation
23 that's going to endure where the ES rate is above the
24 market price, do you? You say in your testimony, I

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1 believe, "it's going to be short-lived", "it could well
2 be short-lived."

3 A. (Baumann) No, that's not what I said.

4 Q. What did you say?

5 A. (Baumann) In my testimony, I said that "it may be
6 short-lived." But I certainly would not try to predict
7 the future, because the future, as we have seen in the
8 energy markets over the last decade, has been extremely
9 difficult to predict.

10 Q. Okay.

11 A. (Baumann) Back when we were purchasing power in 2008,
12 and oil had run up to \$140 a barrel, there were pros
13 saying it was "going to 200", and there were pros that
14 were saying it was "going to drop back down".

15 Q. Right.

16 A. (Baumann) And, you know, sometimes these pros are right
17 and sometimes they're wrong. It's just -- it's a
18 defined item in the market. It's a piece of
19 information. And, you have to look at that information
20 and assess its --

21 Q. Sure.

22 A. (Baumann) -- its worth, if you will, at that point in
23 time.

24 Q. Yes. What it is is, you know, if you're bullish on the

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1 market, you buy at nine and a half; if you're bearish
2 and you think it's overblown, you don't -- you don't
3 pay that. That's what it comes down to, right?

4 A. (Errichetti) As I mentioned earlier, the purchases we
5 made represented approximately 5 percent of the energy
6 requirement that we needed to buy based on our need
7 assessment at that time.

8 Q. Right.

9 A. (Errichetti) So, I would not say that we were in any --
10 we were bullish or bearish. We were building a
11 portfolio of supply to meet an anticipated need.

12 Q. Okay. And, again, we can't put a number on the kind of
13 dollars that we're talking about here, I guess, is what
14 you've told me, is that correct?

15 A. (Baumann) A number on what, Mr. Rodier?

16 Q. What kind of dollars of impact on the ES rate this --
17 you agree there was an above-market purchase at nine
18 and a half cents. There's no way to quantify what --

19 MR. EATON: I object. I object. He's
20 characterizing it as an "above-market purchase", and Mr.
21 Errichetti said it was "bought at market".

22 MR. RODIER: When I use "above-market",
23 I mean, I think it's pretty clear it's above current
24 market prices. Mr. Chairman, I'm just trying to see if

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1 they, you know, --

2 CHAIRMAN GETZ: Well, I think you've
3 clarified your point. So, if we can proceed with the
4 question.

5 MR. RODIER: Okay.

6 BY THE WITNESS:

7 A. (Errichetti) We -- I guess the way you could answer
8 this question is to say the Bio-Energy replacement
9 contract is in the December 7th filing as being
10 12.5 million over market, based on the market price,
11 the ICAP sheet, if you will, that we used to do the
12 December 7th filing. And, one could calculate the
13 market value of the strips using that same day's price.

14 BY MR. RODIER:

15 Q. Okay.

16 A. (Errichetti) It would be, in fact, different than what
17 you handed me here this morning. And, my point to your
18 question is, can I tell you what the value, you know,
19 the over market value of that contract is? No,
20 because, as we go through 2010, the actual prices will
21 be different than what's on this ICAP sheet or as the
22 November 30th prices that we used for the December 7th
23 filing.

24 Q. Right. But you could do an estimation of it using the

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1 same methodology used to quantify the Bio-Energy
2 above-market cost, couldn't you?

3 A. (Errichetti) Yes.

4 Q. Well, why don't we do that.

5 MR. RODIER: Mr. Chairman, could I ask
6 if I could have the Commission order the Company to
7 provide that calculation, only if you think it might be
8 useful to you?

9 CHAIRMAN GETZ: Well, let me make sure I
10 understand what's your request. Is your request that
11 they, as I take what Mr. Errichetti is saying, is you can
12 reconcile after-the-fact what the over market portion was.
13 Are you suggesting that they forecast in 2010 based on
14 what the ICAP sheets say or what the one estimate of what
15 the over market might be for 2010?

16 MR. RODIER: I think that's what they
17 did for Bio-Energy, if I understood the response.

18 MR. EATON: And, there's a distinction,
19 because the Bio-Energy contract is now reported publicly.
20 And, we have filed a Motion for Protective Order that we
21 not disclose the terms and conditions of our purchases.
22 And, the condition of the intervention of all of the
23 competitive suppliers is that they would not have access
24 to confidential information.

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1 CHAIRMAN GETZ: Well, let's break it
2 into two pieces then. In terms of putting aside the issue
3 of confidentiality, is there any objection or concern
4 about putting that number together, making that forecast,
5 and putting it in the record? I assume that's a fairly
6 straightforward --

7 WITNESS ERRICHETTI: It's the same
8 calculation as the Bio-Energy calculation.

9 MR. EATON: No, there's no objection.

10 MR. RODIER: Okay. I'll move on, Mr.
11 Chairman.

12 MR. EATON: It's Exhibit 5?

13 CHAIRMAN GETZ: Five, we will reserve
14 for the record response. Yes. Let's reserve -- I'm
15 sorry, Exhibit 5 for that data -- the record response.
16 But we also -- I guess we'll save Exhibit 6, I guess, Mr.
17 Rodier, you said you could provide the newspaper article
18 that has the reference to a quote from Mr. Murray?

19 MR. RODIER: And, it's the quote
20 contained in Freedom Data Request Number 1. Thank you.

21 (Exhibit 5 and Exhibit 6 reserved)

22 BY MR. RODIER:

23 Q. Mr. Baumann, did you have something to add?

24 A. (Baumann) I just wanted to ask, are we using the prices

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1 on this sheet or --

2 Q. It's the same methodology as Bio-Energy.

3 A. (Baumann) Right. But as of what day? Bio-Energy we
4 had to do a week ago.

5 Q. Well, let's --

6 A. (Baumann) I'm just asking.

7 Q. How about the day when you do the calculation?

8 A. (Errichetti) Well, it won't be comparable to the other
9 numbers, like Bio-Energy.

10 Q. Okay.

11 CHAIRMAN GETZ: Let's use the same date
12 as the other calculation.

13 MR. RODIER: Okay.

14 WITNESS BAUMANN: There you go.

15 MR. RODIER: Thank you.

16 WITNESS BAUMANN: Thank you.

17 BY MR. RODIER:

18 Q. Mr. Baumann, I want to -- one other thing I want to ask
19 you about. PSNH did have a pretty good run for a
20 number of years where the ES rate was lower than the
21 market price, correct?

22 A. (Baumann) Well, I'm not sure, your characterization
23 "pretty good run", what that means. But PSNH's ES rate
24 was significantly below market, yes.

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- 1 Q. And, the larger customers stayed with you, because
2 their option would have been, where the market price
3 was greater than the ES rates, it wouldn't make
4 economic sense to leave?
- 5 A. (Baumann) Sure. I agree.
- 6 Q. Okay. Now, what I want to ask you then, what is the
7 consequence of, if they stayed with Public Service,
8 then you have to buy the power to serve those
9 customers, don't you?
- 10 A. (Baumann) Yes.
- 11 Q. And, you're buying at a price that's above the ES rate,
12 the average ES rate?
- 13 A. (Baumann) No, not necessarily.
- 14 Q. I thought, in our question here, we've established that
15 the market price was greater than the ES rate?
- 16 A. (Errichetti) When? Time period? In the past or
17 present or future?
- 18 Q. I am talking about the past here. You want to pick --
19 if you want to pick 2006, you can.
- 20 A. (Baumann) Well, in 2008, when we made the purchase that
21 Mr. Errichetti referred to, that was about 2 percent of
22 our requirements, --
- 23 Q. Yes.
- 24 A. (Baumann) -- the market -- it was purchased at the

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1 market. In today's market, that's higher than today's
2 market.

3 Q. Right. Right. Here's what I'm -- let me just tell you
4 what I'm trying to get at here, see if we can move this
5 along. You don't have enough generation to serve all
6 your load. So, if the customers that can swing back
7 and forth, if they stay with Public Service, you have
8 to buy that power, correct?

9 A. (Baumann) We have an obligation to serve those
10 customers, yes.

11 Q. Right. And, I'm saying, for a long period, a pretty
12 long period of time, the price that you had to pay for
13 that power in the past was higher than the ES rate?

14 A. (Errichetti) The marginal cost in ES was higher than
15 the average.

16 Q. Right. And, if these customers stayed with you,
17 assuming that they're on the margin, because they could
18 come and go, then their marginal cost of serving them
19 was higher than the -- what did you say, the average ES
20 cost?

21 A. (Errichetti) Well, it's kind of iterative, but let's
22 must just talk generally.

23 Q. Okay. So, in other words, under this scenario where
24 they stayed with you, where the market prices were

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- 1 higher than the ES rate, it increased the ES rate for
2 all customers, including the small customers, didn't
3 it?
- 4 A. (Baumann) I mean, if the margin is above the average,
5 then that would increase the overall average rate.
- 6 Q. Right. Did anybody ever say "Oh, my God, the large
7 customers are increasing the ES rate for the smaller
8 customers, we've got to do something about it"?
- 9 A. (Baumann) Well, all customers at that point stayed with
10 PSNH.
- 11 Q. Right. Right. But, because the large customers
12 stayed, I think we just established that it raised the
13 ES rate for all customers, particularly the smaller
14 customers.
- 15 A. (Errichetti) Well, there's nothing -- there's nothing
16 PSNH is doing to hold onto small customers.
- 17 Q. I'm just asking you a question. Can you agree with
18 that, that it raised the rate for the smaller
19 customers?
- 20 A. (Errichetti) No, it raised the rate for all customers.
- 21 Q. Does that include the smaller customers?
- 22 A. (Errichetti) Yes.
- 23 Q. Okay. So, we have a situation now, when they leave, it
24 raises the ES rate for the smaller customers; they

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1 stay, it raises the rate for all customers, including
2 smaller customers.

3 A. (Baumann) No, I don't agree with that characterization.
4 If large -- If any customer stays with the Energy
5 Service rate and they make a decision to stay with the
6 rate, that's their preference, regardless of what the
7 market is.

8 Q. Right.

9 A. (Baumann) If any customer leaves, and in this situation
10 the larger customers have left, that has had an impact
11 on the Energy Service rate, in effect, raising that
12 rate for the customers who --

13 Q. Right.

14 A. (Baumann) -- are really unable to leave at this point
15 and, in particular, the residential and the small --
16 smaller customers, smaller business customers.

17 Q. Right. Now, in your testimony, you say if once again
18 the currents flip, the market price is greater than the
19 ES rate, the large customers come back, and you say
20 it's going to increase the ES rate for the captive
21 customers. Don't you say that in your testimony?

22 A. (Baumann) No. Well, I say half of that. I say that,
23 if the market rates drop -- or, excuse me, if the
24 market rates go up in our discussion in the testimony,

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1 that large customers would certainly look at that and
2 would choose the most economic and advantageous rate
3 for them to pay. And, they would either stay with
4 their third party supplier or they would come back to
5 Energy Service. I do not say that that would drive the
6 Energy Service rate up. And, in effect, actually, if
7 they came back, it would drive the Energy Service rate
8 down, because the result of them leaving has driven the
9 Energy Service rate up. So, if they came back, it
10 would mathematically have an impact of driving the ES
11 rate down.

12 Q. Okay.

13 A. (Baumann) Hope you're laughing with me and not at it.

14 Q. Now, look at Page 4 of your testimony please, Line 6.

15 A. (Baumann) Which testimony, sir?

16 Q. Oh, I'm sorry. I'm looking at the November 30 -- the
17 November 23rd edition. I guess that's Exhibit 2, Page
18 4, Line 6.

19 A. (Baumann) So, this is the supplemental testimony?

20 Q. Yes.

21 A. (Baumann) And, I'm sorry, Mr. Rodier, what page was
22 that?

23 Q. Page 4.

24 A. (Baumann) Yes, I'm there.

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- 1 Q. Now, on Line 6, let me read it: "If market prices in
2 the future increase once again over the ES rate level,
3 PSNH expects that some or all of these customers on
4 third party supply would migrate back to PSNH's ES
5 default rate." Did I read that correctly?
- 6 A. (Baumann) Yes, sir.
- 7 Q. Okay. So, you're saying some or maybe even all would
8 go back. And, then, as a result of that, you'd be
9 "required to secure supply in a rising market for these
10 returning customers." Okay. And, you're saying --
11 you're saying that does not -- would not harm the
12 smaller customers?
- 13 A. (Baumann) No, I'm simply saying what the words say.
14 That they would -- we, PSNH, would have to go out and
15 secure a generation source to supply those customers in
16 a rising market.
- 17 Q. At a marginal cost higher than the average cost?
- 18 A. (Baumann) It depends on where the market is.
- 19 Q. Okay. Just above that here, moving along, Page 4, Line
20 1, and let me read it: "While we do not have a
21 long-term forecast of ES rates, we do not believe the
22 past 18 months is an accurate indicator for long-term
23 prices and the dynamic energy markets have supported
24 this time and again." So, you don't believe that the

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- 1 past 18 months is an accurate indicator for long-term
2 prices, correct?
- 3 A. (Baumann) That's what it says.
- 4 Q. So, does that mean you don't believe in the prices that
5 we saw in the ICAP quote sheet?
- 6 A. (Baumann) I believe they are the prices in that quote
7 sheet on that particular day that some "pro" has, --
- 8 Q. Right.
- 9 A. (Baumann) -- in using your words, put together.
- 10 Q. Okay.
- 11 A. (Baumann) But, as we saw in that graph, in the response
12 to that data request we were talking about about 15
13 minutes ago, the energy markets have been extremely
14 dynamic.
- 15 Q. Okay.
- 16 A. (Baumann) And, what I mean "dynamic", they have gone
17 way up and way down in short periods of time.
- 18 Q. Okay.
- 19 A. (Baumann) Historically, over the past, say, three,
20 four, five, six, ten years.
- 21 Q. Okay. So, the ICAP sheet is an accurate indicator of
22 what the market is saying the prices are for 2015.
23 That's not the same as it would be an accurate
24 indicator of what they actually turn out to be?

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- 1 A. (Errichetti) Or what they were saying three weeks ago
2 or what they will be saying four weeks from today.
- 3 Q. Okay. But these prices have been relatively stable, in
4 the 6 cent range, for a long period of time, haven't
5 they?
- 6 A. (Errichetti) I truly don't know, --
- 7 Q. Okay.
- 8 A. (Errichetti) -- (a) what you mean by "long term" and
9 (b) I haven't been looking at 2015.
- 10 Q. Okay. Let's get into just a little bit here and try to
11 wrap things up, what if we're into a chronic situation
12 here where ES rate is above the market price for a long
13 period of time.
- 14 A. (Baumann) A "chronic situation"?
- 15 Q. Chronic, meaning "enduring". Okay?
- 16 A. (Baumann) So, you're assuming market prices remain low?
- 17 Q. Yes. If the ICAP -- along the lines of what the ICAP
18 quotes are, okay? I'm just wondering what that may
19 cause? You could have a lot of defections, you could
20 have a lot of migration, couldn't you?
- 21 A. (Baumann) I don't know. That would be up to the
22 customer. You could certainly paint any scenario you
23 want when you have migration, but you have to assume
24 then there will be suppliers that will want to supply

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1 and --

2 Q. Right. Now, are you concerned about the bigger picture
3 here? You ever give any thought to the position you
4 could be in in a situation that's just not going to go
5 away? You want me to repeat the question?

6 A. (Baumann) No, I know the question. I mean, our concern
7 here today in this docket is that the Energy Service
8 rate is increasing for a captive class of customer, if
9 you will, that have not migrated.

10 Q. So, you may not be looking just for a short-term
11 solution for 2010, you may be looking for a longer term
12 one?

13 A. (Baumann) Well, we believe Method 1 that we set forth
14 in our testimony is a method that should be looked at
15 very closely in the upcoming months as a --

16 Q. Right.

17 A. (Baumann) -- and, out of that review, you know, you put
18 a lot of smart people together and hopefully we'd come
19 up with a good solution that we could present to the
20 Commission.

21 Q. Now, on Line 1, Page 4 of Exhibit 2, you say you "don't
22 have a long-term forecast of ES rates," correct?

23 A. (Baumann) That's correct.

24 Q. Did I hear somebody just mention an "ES model"?

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- 1 A. (Errichetti) It's a one-year, we use it to -- it's what
2 we use in this proceeding to calculate the next year's
3 rate.
- 4 Q. Okay. Is there a corporate model by which you folks at
5 NU sort of forecast where your rates are going in the
6 future?
- 7 A. (Baumann) Yes, we have -- we have one-year budgets and
8 five-year forecasts.
- 9 Q. Okay. You have five-year forecasts of revenues and
10 rates?
- 11 A. (Baumann) Yes.
- 12 Q. Would that contain the ES rates?
- 13 A. (Baumann) It would contain an assumption for energy
14 costs, and what we do in our corporate models, for
15 budgeting purposes, is we equate the energy revenues
16 with the energy costs. So, we really -- it could be at
17 a point in time, but we don't do a rigorous analysis
18 and say "this is what the rates are going to be for,
19 say, a price of energy type of a situation." We just
20 -- We really, for budget purposes, because you're
21 really budgeting out what your earnings are going to be
22 in the future, and the assumption is that these costs
23 are fully tracked and one-for-one.
- 24 Q. Okay.

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1 A. (Baumann) So, revenues are just, in effect, squeezed or
2 plugged into equally expenses.

3 Q. So, it's not like the rate case planning you have to do
4 for base rates, it's different because there's
5 trackers?

6 A. (Baumann) That's correct.

7 Q. Okay. I understand. Now, do you have a notion of
8 where the ES rates might be going?

9 MR. EATON: Mr. Chairman, we're trying
10 to set a 2010 rate here. And, I don't know where this is
11 going or why it's important as to setting a rate for 2010.
12 I've let Mr. Rodier go on. But this is -- this doesn't
13 seem to be terribly relevant to how we set a rate for
14 2010.

15 MR. RODIER: I think the issue is
16 clearly much broader than that, Mr. Chairman. We're
17 talking about whether the natural gas prices are going to
18 endure. Whether we're talking -- well, let me put it this
19 way. The Commission is going to have to make a decision
20 here and handle this as an issue, okay? Are you going to
21 make the decision based upon 2010 or are you going to take
22 a look at the bigger picture and have that in mind when
23 you make a decision as to whether you're going to do
24 anything, and, if you're going to do something, what it

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1 might be. Clearly, the -- let's just look at the question
2 on Line 15 to Page 3. "Does PSNH believe the current drop
3 in load obligation due to migration will continue long
4 term?" I'm not the one that's raised the issue about
5 "long term". I'm just trying to cross-examine on his
6 testimony.

7 Having said that, as usual, I'm always
8 happy to abide by any decision of the Commission.

9 (Chairman and Commissioners conferring.)

10 CHAIRMAN GETZ: Mr. Rodier, I think, in
11 light of the Method 1 that's been suggested as a possible
12 method going forward, we'll allow you some further
13 latitude along this line. So, if you could restate your
14 question for the witness, then we'll proceed.

15 BY MR. RODIER:

16 Q. I think I asked you if you had any notion of where the
17 ES rate was going?

18 A. (Baumann) No. Not in the long term, because I don't
19 have a notion as to what the market price is going to
20 do in the long term.

21 Q. Yes.

22 A. (Baumann) Or migration.

23 Q. Well, is there anything out there that we do know that
24 could come along in a few years that would affect the

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- 1 ES rate?
- 2 A. (Baumann) In what way? Market pricing?
- 3 Q. You can't think of anything that might come along in
- 4 2012 that could increase the ES rate or reduce it?
- 5 Okay.
- 6 A. (Errichetti) You mean, like natural disasters?
- 7 Q. Look, I'll drop the line of question, line of
- 8 questioning. I don't want to wear out my welcome. So,
- 9 I have one last area. You say the smaller customers
- 10 are "captive" pretty much, they don't have options,
- 11 don't you, in your testimony?
- 12 A. (Baumann) I said that, "at the present, it doesn't
- 13 appear that there's a lot of customers that have
- 14 options."
- 15 Q. Okay. Now, I'm looking at your -- TransCanada's data
- 16 responses and they say "there's 161,000 residential
- 17 customers in Connecticut that have gone to the
- 18 competitive market." Did you see that response?
- 19 A. (Baumann) In what state?
- 20 Q. Connecticut.
- 21 A. (Baumann) Connecticut. Subject to check, if that's
- 22 what they said.
- 23 Q. Okay. So, you don't know how many customers have
- 24 migrated to the -- smaller customers have migrated to

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- 1 the competitive market in Connecticut?
- 2 A. (Baumann) No.
- 3 Q. Okay. So, subject to check, let's go with the
- 4 "161,000", of which CL&P has probably got 140,000 of
- 5 those, okay, given the size of your service territory?
- 6 A. (Baumann) I'm sorry, 140 of 160?
- 7 Q. Yes. I'm just saying CL&P is very large; UI is very
- 8 small.
- 9 A. (Baumann) CL&P is about 75 percent of the load in
- 10 Connecticut. I don't what their proportionate
- 11 residential/commercials is, compared to, say, United
- 12 Illuminating or other utilities.
- 13 Q. Okay. My point is, just looking at the bigger -- where
- 14 would this lead? Is there any reason why this couldn't
- 15 happen in New Hampshire?
- 16 A. (Baumann) I don't know, Mr. Rodier.
- 17 Q. You don't know of any reason why it couldn't?
- 18 A. (Baumann) I really don't think I'm prepared to address
- 19 this issue.
- 20 Q. Okay. Who's got their eye on the ball at NU, as far as
- 21 the bigger picture is concerned? Is that some other
- 22 department?
- 23 A. (Baumann) "Bigger picture", could you be more specific?
- 24 I'm sorry.

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- 1 Q. Yes. Well, I'm just trying to just, you know, to
2 conclude this cross-examination, and I'm just wondering
3 what happens in New Hampshire, if the time comes when
4 the residential customers migrate as well? Where does
5 that leave you with this overhang of -- what did you
6 call it? You called it the "sustainable" PSNH
7 portfolio, is that the word that you used?
- 8 A. (Baumann) Doesn't sound like me.
- 9 Q. All right. I wrote it down. Let me -- I didn't write
10 it down. Sorry. You've got this portfolio, you talk
11 about the fixed costs here that don't change when
12 customers leave, correct?
- 13 A. (Baumann) I'm sorry, I didn't get the question.
- 14 Q. Your testimony, the theme is you talked of the fixed
15 costs that don't change when customers migrate,
16 correct?
- 17 A. (Baumann) There are costs that remain, yes.
- 18 Q. I mean, that's the whole theme of your testimony?
- 19 A. (Baumann) Yes.
- 20 Q. Okay. So, what happens if the smaller customers leave?
21 Do we get into a upward spiral or a downward spiral,
22 where the ES rate could just absolutely go to 30 cents
23 a kilowatt-hour? Have you given that any thought?
- 24 A. (Baumann) Again, I'm not -- I am not prepared today to

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1 testify to that type of a hypothetical.

2 Q. Okay. Okay. But let me just conclude then on this
3 note. You haven't done any analysis or evaluation at
4 NU as to why, in Connecticut, you've had this big slug
5 of migration and you've had none in New Hampshire? I
6 mean, leading to the inquiry of what could happen in
7 New Hampshire?

8 A. (Baumann) Yes. You want my opinion on why there's been
9 known migration in Connecticut?

10 Q. New Hampshire, you mean?

11 A. (Baumann) In Connecticut. You talked about
12 "Connecticut migration".

13 Q. I'm happy to -- I'm interested in your opinion.

14 A. (Baumann) Well, my testimony was very clear. It said
15 that customers migrate (a) when it's economically
16 beneficial. We believe that that's a big thing, and I
17 think you'd agreed with that.

18 Q. Yes.

19 A. (Baumann) And, secondly, there is an ability to
20 migrate.

21 Q. Right.

22 A. (Baumann) And, in Connecticut, Connecticut customers,
23 because of the unprecedented market decline in market
24 prices --

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1 Q. Right.

2 A. (Baumann) -- over the short-term period, the last 12 to
3 18 months, there is enough margin out there that
4 suppliers are able to offer customers lower rates than
5 what they would pay if they stayed on, in Connecticut,
6 the Standard Service or, in New Hampshire, the Energy
7 Service. That's why there's migration. Customers
8 choose the economic path that's most beneficial.

9 Q. Right. Could happen in New Hampshire, couldn't it?

10 A. (Baumann) You're asking me to predict the future. I
11 don't know what the future is.

12 Q. Well, I'm not asking you to predict the future. I'm
13 asking if there could be residential migration in New
14 Hampshire, particularly if the ES rate is going to
15 continue to be above the market price?

16 A. (Baumann) It's allowed by law.

17 Q. Okay.

18 A. (Baumann) So, you can paint any hypothetical you want,
19 and which is your right to do. But, if it's allowed by
20 law right now, it could happen. Even if it's not
21 allowed by law right now, the laws could change. So,
22 certainly.

23 MR. RODIER: I appreciate your
24 responses. Thank you.

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1 WITNESS BAUMANN: Thank you, Mr. Rodier.

2 CHAIRMAN GETZ: Mr. Rodier, how much
3 cross do you have?

4 CMSR. BELOW: You mean "Patch".

5 CHAIRMAN GETZ: Mr. Patch?

6 MR. PATCH: It's kind of hard to
7 estimate. I would guess somewhere between one and two
8 hours total.

9 CHAIRMAN GETZ: Okay. Then, let's -- I
10 think we should take a lunch recess at this time then.
11 Yes, we'll take the lunch recess and we'll resume at 1:15.

12 (Whereupon a lunch recess was taken at
13 12:22 p.m. and the hearing reconvened at
14 1:26 p.m.)

15 CHAIRMAN GETZ: Okay. Good afternoon.
16 We will resume the hearing in docket DE 09-180. And, turn
17 to Mr. Patch.

18 MR. PATCH: Thank you, Mr. Chairman. It
19 might be helpful if we had marked for identification,
20 since I'm going to have a few questions about the
21 attachments, the prefiled testimony that Mr. Hachey
22 submitted. And, I have a couple of extra copies here.

23 CHAIRMAN GETZ: Okay. We'll mark
24 Mr. Hachey's testimony for identification as Exhibit

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1 Number 7.

2 (The document, as described, was
3 herewith marked as Exhibit 7 for
4 identification.)

5 MR. PATCH: Anyone else need a copy?

6 (Mr. Patch distributing documents.)

7 BY MR. PATCH:

8 Q. Mr. Errichetti, if I could begin with you. Were you
9 the person responsible for answering at least some of
10 the data requests in this proceeding that pertained to
11 purchased power decisions?

12 A. (Errichetti) Yes.

13 Q. And, I'm going to focus on Q-TC-022. That's the first
14 set of data requests from TransCanada. And, it's
15 MEH-2. It's the second attachment to Mr. Hachey's
16 prefiled testimony. And, if I understand correctly,
17 the response to the question about "whether PSNH
18 followed the exact process outlined in the Least Cost
19 Plan" was essentially "no", that you didn't follow
20 that?

21 A. (Errichetti) The question was, "did we do what the
22 narrative said in the Least Cost Plan?" And, the
23 answer was "no", we did not do what the narrative said.

24 Q. And, as I understand it, you did not prepare the

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- 1 response that's marked as "MEH-1", which is Q-TC-015,
2 in which the answer to a very similar question was "did
3 you follow the Least Cost Plan?" The answer was "yes".
4 Is that fair to say, that's the answer and also that
5 you weren't the one that prepared that response?
- 6 A. (Errichetti) I'm trying to find in my backup
7 Mr. Hachey's testimony to find the response.
- 8 Q. Want me to show you a copy?
- 9 A. (Errichetti) No, I have it. I just have to get to it.
- 10 Q. Okay.
- 11 A. (Errichetti) I believe Question 15 is speaking to the
12 portion of the supplemental filing in the Least Cost
13 Integrated Resource Plan that refers to PSNH's
14 flexibility in meeting the procurement needs. So, I
15 think what happened is 15 is answering the question
16 "did we comply with the Least Cost Plan?" And, the
17 answer is "yes." And, your question was "did we
18 specifically follow the narrative that was in the same
19 supplement?" And, the answer was "no." I personally
20 don't have any problem reconciling the two responses.
- 21 Q. Okay. Well, let's look at that a little further then.
22 You're familiar, I assume, with the Least Cost Plan
23 that's the subject of those questions?
- 24 A. (Errichetti) I've reviewed the portions that I think

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1 were relevant to these questions, yes.

2 MR. PATCH: And, Mr. Chairman, I have an
3 excerpt from that plan, rather than provide the whole
4 plan, I've got Pages 87 to 91, which I'd like to hand out,
5 if I could.

6 (Mr. Patch distributing documents.)

7 BY MR. PATCH:

8 Q. And, if you'd look at Page 87 of that plan. And, if
9 you'd look at the bottom of the page, the very last
10 paragraph that carries over onto Page 88, and tell me
11 if I've read this correctly: "The initial purchase
12 targets are typically established in March or April of
13 the prior year. The purchase plan is reviewed with
14 PSNH's management and a procurement schedule is
15 developed that typically calls for purchasing to be
16 conducted in multiple phases during May through the
17 filing date of the final rate forecast, normally in
18 November." Did I read that correctly?

19 A. (Errichetti) Yes.

20 Q. And, you're saying that's what was not followed?

21 A. (Errichetti) I think the operative word here is
22 "typical".

23 Q. Do you want to explain that?

24 A. (Errichetti) I think what I'm saying is it's not

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1 binding. And, --

2 Q. Go ahead.

3 A. (Errichetti) -- if you continue, it says "This purchase
4 strategy is subject to continuous internal review and
5 may be revised to account for market movement, the
6 availability of supplies, and the forecasted
7 utilization of Newington, which fluctuates based on the
8 relative pricing of oil versus purchased power." I
9 believe that following sentence says that what you do
10 typically isn't binding, and I think the supplement
11 that was filed on I believe it was March 20 something,
12 2008, that's also included as an attachment to your
13 testimony, or at least has been taken notice of as
14 Exhibit 2 -- is it Exhibit 2?

15 MR. EATON: In?

16 BY THE WITNESS:

17 A. (Errichetti) It's the Least Cost Plan supplemental
18 filing. We expanded on what was said here in the
19 original filing, at the request of the Commission.

20 MR. PATCH: Okay. Well, I have a copy
21 of that. Maybe it would be helpful if I pass that out and
22 ask that this be marked as the next exhibit. This is the
23 March 28th, 2008, DE 07-108 supplement that I think you're
24 referring to.

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1 CHAIRMAN GETZ: Okay. Well, then let's,
2 this excerpt that you've handed out, beginning on Page 87
3 of the Least Cost Integrated Resource Plan, we'll mark for
4 identification as "Exhibit 8". And, we'll mark for
5 identification as "Exhibit 9" the filing in docket DE
6 07-108, from March 28, which I believe we discussed
7 earlier today was the subject matter that we were going to
8 take administrative notice of, is that correct, Mr. Eaton?

9 MR. EATON: Yes.

10 CHAIRMAN GETZ: And, this is, in effect,
11 Exhibit 2 from docket DE 07-108?

12 MR. EATON: Yes.

13 (The documents, as described, were
14 herewith marked as Exhibit 8 and
15 Exhibit 9, respectively, for
16 identification.)

17 BY MR. PATCH:

18 Q. So, if I -- go ahead.

19 A. (Errichetti) Well, what I was trying to convey is, at
20 the top of the second page of Exhibit 9, which is
21 labeled "Supplement 3 - Supplemental Power Procurement
22 Strategy, Append the following to the end of Section
23 V.B.6.2, Page 91", the first paragraph there clearly
24 says that we're providing an overview of what we did in

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1 2007, and that our strategy is constant -- well, I
2 mean, I could just read it. But it says, you know,
3 it's indicative of what we're doing, and that we don't
4 have a prescriptive hedging protocol, and that we
5 remain flexible in our planning process to respond to
6 changing criteria and to create benefits for customers.

7 So, I think the response to TC-015 was
8 referring to that paragraph, and the response to 22 was
9 referring to the subsequent discussion where we
10 explained what we did for 2007.

11 Q. Okay. Well, let's take a look at what was just marked
12 as an exhibit, the March 28th letter, and let's look at
13 Page S3-2. It has a "209" in the bottom right-hand
14 corner. And, about a third of the way down the page it
15 talks about the timing of the firm bilateral strip
16 purchases. And, as you said, this is supposed to be
17 indicative. And, do I understand correctly?

18 A. (Errichetti) If you read the passage beneath the
19 bullets, it says "The above 2000 -- that "The above
20 summary of 2007 activity provides a specific example of
21 the general hedging strategy."

22 Q. Okay. But I understood you, in response to a question
23 I asked you, to say "okay, we're not firmly bound by
24 this, but this is indicative of the way we do things."

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1 Did I misunderstand you?

2 A. (Errichetti) It's indicative of what we were doing at a
3 point in time.

4 Q. Oh. Okay. So, this -- I mean, this was a plan that
5 you filed with the Commission, right, a Least Cost
6 Plan? This is part of that process, right? But you're
7 saying -- you're saying all it was was a historical
8 record, it wasn't a plan for the future?

9 A. (Errichetti) Yes.

10 Q. That's what you're saying?

11 A. (Errichetti) This, this discussion here is a summary of
12 what we did in a prior period. And, in fact, in -- I'm
13 not sure exactly which response it is, I can -- let me
14 look. In a response to one of your questions, if I
15 could find it, you asked for the dates in which we
16 entered into purchases for 2010.

17 Q. Yes.

18 A. (Errichetti) In that response, there were -- there were
19 transactions for 2010 identified in early 2008. I just
20 found it. It's TransCanada-01, TC-021, Supplement 01.
21 And, I was looking at it, and I realized that we, in
22 this response, indicated that we had entered into
23 transactions for 2010 prior to our March -- our March
24 28th filing that's marked as "Exhibit 9". So, you

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1 know, it's like we clearly were describing to the
2 Department in the Least Cost Plan what we did in an
3 historical period, to indicate that we actively try to
4 manage what I'll, for simplicity, refer to as the
5 "gap". And that, even as we were submitting that
6 narrative in the Least Cost Plan, we were evolving, we
7 were changing. We were looking at the future and
8 acting differently.

9 Q. What's the point of having a planning process, though,
10 if you're telling the Commission "this is indicative of
11 what we're doing", but then you don't do what you say
12 is indicative of what you're doing? Because you seem
13 to be finding every way you can to try to get out from
14 under the words you used in the Least Cost Plan.

15 A. (Errichetti) I'm not trying to get out of the words.
16 What I'm trying to point out is that you're looking at
17 Passage B, and I'm looking at Passage A. And, I'm
18 saying that, in the Least Cost Plan, we explained that
19 at the time we actively manage our procurement needs.
20 I think, it's maybe a little digression, but, as we
21 look forward and we contemplate the impact of
22 migration, I think we, obviously, have to be dynamic
23 and flexible and creative. Because, if we were to lock
24 in on what's described in the 2000 [2007?] Least Cost

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1 Plan today, I mean, we would be probably over
2 purchasing, because we don't know where migration is
3 truly going. We don't know where the market's going.
4 What's described in the Least Cost Plan for 2007 was
5 applicable and appropriate under the conditions that we
6 were experiencing, which was relatively -- relatively
7 little migration or transient migration, and prices
8 that were either flat or moving upward. And, it made
9 sense to make your purchase ahead of time, because you
10 pretty much had a stable gap. I think, with this
11 unprecedented recession, and our ES rate being set once
12 a year, reset once a year, we've ended up with a price
13 that's out of synch with the market. People are
14 migrating. They have the right to migrate. I no
15 longer have a stable, predictable gap. You know, we're
16 going to have internal discussions about "what does
17 this mean?" "How do we manage the difference between
18 our gen and what we think our load is in the future?"
19 And, I truly don't think that the Commission wants us
20 wedded to something that was written in 2008 that may
21 not get rewritten or revised or even thought about
22 until late 2010, in the next Least Cost Plan cycle.

23 Q. Are you familiar with the state law that requires a
24 utility in New Hampshire, in any proceeding that it

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1 initiates, to show conformity with the most recently
2 filed Least Cost Plan, RSA 378:41?

3 A. (Errichetti) I am not intimate with it.

4 Q. Okay.

5 A. (Errichetti) But, having said that, I take the Least
6 Cost Plan to ask "does the Company think about managing
7 the difference between its own generation and its load
8 obligation?" And, the Least Cost Plan clearly says
9 "yes, we think about it and we deal with it." And, I
10 think that's the conforming aspect. It's not prescript
11 -- I mean, the supplemental response says it's not
12 prescriptive. That's as much a part of what was filed
13 as the narrative for 2007.

14 Q. It's not prescriptive. So, in other words, you're not
15 bound by that statute I just cited, and you're not
16 bound by the words you put in the Least Cost Plan?

17 A. (Errichetti) No, I didn't say anything about the
18 statute. I said "I don't feel that we're bound by the
19 narrative that's in the Least Cost Plan supplemental
20 filing."

21 Q. Do you think you're bound by --

22 A. (Errichetti) Or, in the other part of the original
23 filing, where I think the supplement was an expanded
24 discussion.

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1 Q. Do you think you're bound by the statute?

2 MR. EATON: I don't think the witness --

3 A. (Errichetti) Well, I'm not a lawyer.

4 MR. EATON: I don't think the witness
5 should comment on what the statute means.

6 BY MR. PATCH:

7 Q. And, so, the bounds to your procurement practice then,
8 if I understand you correctly, are not very limited by
9 the Least Cost Plan. Are they in any way regulated by
10 your internal procedures?

11 A. (Errichetti) Yes.

12 Q. And, that was the response to -- I think it was in our
13 first set.

14 A. (Errichetti) Our procurement strategy is reviewed by
15 senior management, and any purchase decisions are
16 approved by senior management. And, the procurement
17 strategy -- I think I said the procurement strategy is
18 reviewed with management, yes.

19 Q. Okay. And, so, the response that you provided, and we
20 only received a redacted copy, but the response to, in
21 the first set, TransCanada's Question Number 13, about
22 "Please provide copies of any guidelines, standard
23 operating procedures or other forms of guidance", that
24 provides guidance to you. So, not much in the Least

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1 Cost Plan, not sure about the law, but we follow at
2 least the guidelines that are -- that are attached to
3 the answer to Q-TC-013?

4 A. (Errichetti) Which I also believe provide a framework
5 for managing procurement, yes.

6 MR. PATCH: Okay. Mr. Chairman, I'd ask
7 that this be marked as an exhibit. Now, as I indicated, I
8 don't have the unredacted copy, only the redacted copy. I
9 believe the Commission has the unredacted copy. And, I
10 think it would probably be helpful, if you haven't
11 already, to look through that. But I would like this to
12 be marked as an exhibit, if I could.

13 (Mr. Patch distributing documents.)

14 CHAIRMAN GETZ: Well, let me see. We
15 have the redacted response to TransCanada, Set 1, Question
16 13. We'll mark that for identification as "Exhibit Number
17 10". And, we will mark for identification as "Exhibit
18 Number 11" the unredacted version of that. But, I guess,
19 just a clarification for the record, Mr. Patch. That
20 typical of discovery, we haven't seen discovery until it's
21 proffered as an exhibit.

22 So, with that explanation, we will mark
23 both of those documents for identification.

24 (The documents, as described, were

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1 herewith marked as Exhibit 10 and
2 Exhibit 11, respectively, for
3 identification.)

4 CHAIRMAN GETZ: Ms. Hatfield.

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

6 Could I inquire just quickly of Mr. Eaton, just to clarify
7 something. The OCA does have the confidential version.
8 And, the confidential sections don't have the standard
9 marker for noting for the reader when you're going into
10 confidential. But it appears that confidential material
11 might be underlined. So, I just wanted to inquire of Mr.
12 Eaton if I'm reading that properly? And, the
13 Commissioners might need to know that as you're reviewing
14 it as well.

15 MR. EATON: Yes. We left in, at the
16 suggestion that you've had in the past, we left in the
17 left-hand margin a vertical line, and then the text that's
18 underlined in the unredacted version is the materials that
19 we redacted for the public version.

20 MS. HATFIELD: Thank you.

21 CHAIRMAN GETZ: Thank you. Okay,
22 Mr. Patch.

23 MR. PATCH: Okay.

24 BY MR. PATCH:

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1 Q. Mr. Errichetti, in your rebuttal testimony that you and
2 Mr. Baumann filed jointly, there is a -- I believe it
3 begins on Page 2, Line 19, and this is I think back to
4 sort of what you were saying before. Actually, if you
5 look at Page 2, and you look at the whole Q&A that
6 begins on Line 8, and then you look down, it carries
7 over onto the next page, I think the point that you're
8 making there is that the second passage that you refer
9 to, as you say at the top of Page 3, "the use of the
10 word "current" is not trivial; it speaks to the earlier
11 passage repeated above." And, the earlier passage that
12 you refer to is from the original Least Cost Plan, is
13 that correct?

14 A. (Errichetti) No, sir.

15 Q. I'm sorry. The earlier passage is actually from the
16 March 28th filing?

17 A. (Errichetti) Yes, sir.

18 Q. Now, the second passage that you refer to here at --
19 beginning on Line 19, at the bottom of Page 2, it says
20 "The passage in this same supplement that TCPM insists
21 is the inviolate procurement plan itself leads off by
22 saying "PSNH's current procurement plan is focused
23 primarily on the subsequent annual period." Now,
24 that's not actually from the March 28th supplement, is

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- 1 it? It's actually from the Least Cost Plan itself. If
2 you look at the excerpt that I handed out, I think that
3 that language is pretty clearly not as you suggest in
4 your testimony from the supplement, but it's actually
5 from the original plan.
- 6 A. (Errichetti) Okay. Could you point me to where,
7 because I may have, in fact -- help me, because I
8 thought I actually read it in the March 28th filing.
9 So, if I read it in the other, help me find it.
- 10 Q. I'm looking at Page 87 of that excerpt. I'm looking at
11 the last full paragraph that begins "PSNH's current
12 procurement plan is focused primarily on the subsequent
13 annual period." I think that's the exact passage
14 you're quoting from, is it not?
- 15 A. (Errichetti) Thank you.
- 16 Q. So, it is. It's from the plan, not from the --
- 17 A. (Errichetti) I honestly thought I read it in the March
18 28th, you're pointing out to me I read it in the other.
19 Thank you.
- 20 Q. So, then, the full -- first full sentence at the top of
21 Page 3 doesn't really make any sense, does it? Where
22 it says "The use of the word "current" is not trivial;
23 it speaks to the earlier passage repeated above - that
24 PSNH's procurement process is dynamic and changing, not

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1 static."

2 A. (Errichetti) I guess what I would say is it's still
3 relevant, because the March 28th supplemental filing
4 was an expansion and an elaboration on what was in the
5 original filing. So, I think the general observation
6 still applies, even if my -- my putting it in context
7 was flawed because I grabbed the wrong reference.

8 Q. Did PSNH prepare or have prepared a migration forecast
9 for 2010?

10 A. (Errichetti) We don't forecast migration.

11 Q. You don't. Then, how can you responsibly decide how
12 much power to purchase and when to purchase it?

13 A. (Errichetti) We do -- well, first of all, we use the
14 existing migration at the time that we're looking at
15 the procurement. Secondly, we consider the
16 implications of procure -- of migration on the
17 procurement strategy. And, as a consequence, we don't
18 buy 100 percent of the gap. Now, I think what has
19 changed dramatically is our perception of what
20 migration could be.

21 Q. Meaning how much migration?

22 A. (Errichetti) Yes. We don't forecast it, but we're
23 aware of it. And, it cuts both ways. Right now, the
24 migration stands at about 27 percent at peak. And, we

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1 aren't a marketing company. So, we don't know what --
2 and we don't know, and when we ask marketing companies
3 what their intentions are, we don't get answers. So,
4 we know at this point there's 26 percent. It could go
5 to zero, it could go to 100. We really don't know.

6 Q. So, you're saying, at the time that you made the
7 purchases that are -- that PSNH proposes to use to
8 serve ES customers in 2010, you didn't really think
9 about migration, but you've learned your lesson and
10 you're going to think about it in the future?

11 A. (Errichetti) That's not entirely correct. We had
12 experience with migration. At the time we were
13 looking, migration was relatively low. The amount that
14 we purchased, as I indicated earlier, was approximately
15 5 percent of the 44 percent of our total need that
16 needed to be bought or needed to be managed, I should
17 say "managed", not "bought". Between the date --
18 Between the time that we did that projection and today,
19 we have experienced the largest recession, short of a
20 depression, that our country has seen.

21 As I mentioned this morning, I looked,
22 and the sales forecast that was used when those
23 purchases were vetted with management and approved is
24 down 8 percent, and migration is up dramatically. So,

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1 I don't -- we were aware. And, I think to say that we
2 should have known that we were going to experience an
3 historic recession and a contraction of the economy, I
4 don't believe that's reasonable.

5 Q. Back to the 2007 Least Cost Plan, on -- I believe it's
6 on Page 90, it says "migration activity is more apt to
7 accelerate during a softening of the energy market."

8 Does that sound accurate?

9 A. (Errichetti) Sounds accurate.

10 Q. So, essentially, the periods of heavy customer
11 migration tend to follow periods of high energy prices,
12 is that fair to say?

13 A. (Errichetti) The passage was referring to the cyclical
14 nature of migration that we had seen to date, then to
15 date.

16 Q. So, you disagree with my statement then, that "periods
17 of heavy customer migration tend to follow periods of
18 high energy prices"?

19 A. (Errichetti) No, I think -- well, okay, I think what it
20 really -- what it should have said and didn't say it,
21 was you -- no, I think that's right. When prices fall
22 off after the winter, and marketers can offer a lower
23 price than what we've got in our annual price, the
24 customers would leave. And, then, when the market

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1 prices turned around, customers who had short-term
2 contracts came back, because, again, we had an annual
3 rate. That was the pattern we were seeing.

4 What we have seen since early 2009 is a
5 completely different form of migration. And, you know,
6 one could argue that the prices softened, and you would
7 have thought everybody would have left immediately,
8 and, actually, it's been a slow trickle, not an
9 instantaneous move. So, I think we're all learning.
10 We're learning. This is all new.

11 Q. So, would you agree or disagree then with the statement
12 that "The fuel price run-up in mid-year 2008", and I'm
13 taking this from Mr. Hachey's testimony, Page 5, Line
14 15, "The fuel price run-up in mid-year 2008 clearly
15 posed significant risk of customer migration in the
16 event energy market prices softened." Would you agree
17 with that or disagree with that?

18 A. (Errichetti) As a universal truism?

19 Q. No, it's not universal. It's making specific reference
20 to you.

21 A. (Errichetti) No, it's a universal truism that if the
22 Standard Service, the Standard Offer price is on the
23 wrong side of the market, you're going to get
24 migration. That's a truism. If you're asking me that

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1 I should, we, PSNH should have known that where prices
2 had gotten was the top, was the ceiling, that everybody
3 knew prices was going to fall, I would disagree.
4 Because people were talking about \$200 a barrel oil,
5 when it was 140. People weren't saying "It's 140, it's
6 going to collapse." So, you're looking backward and
7 saying that. I'm looking forward, and I'm saying
8 people weren't saying "we were at the top." People
9 were saying "there was more to go." People were saying
10 "China has got an insatiable oil demand. And, even if
11 America slips a little bit, world demand's going to
12 continue." And, gas was chasing oil.

13 Anyway, it's a universal truism. Yes.
14 Were we at the top? Were we at the top? Did we know
15 that that was a high price or a year later could prices
16 have been double what we were seeing? Anything was
17 possible.

18 MR. PATCH: Mr. Chairman, I'd ask that a
19 data response to Q-TC-009, second set, be marked as the
20 next exhibit. And, I'll hand out copies.

21 CHAIRMAN GETZ: We'll mark for
22 identification as "Exhibit Number 13" the answer to
23 TransCanada Interrogatory Set 2, Question 9.

24 MS. AMIDON: Mr. Chairman, is that

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1 number 12 or number 13?

2 CHAIRMAN GETZ: That would be number 13,
3 because the confidential version of Exhibit 10 is
4 Exhibit 11, I believe. Is that right?

5 MS. DENO: Eleven is the unredacted.

6 CHAIRMAN GETZ: So, let's review the
7 bidding. I think we're at Exhibit 12 --

8 MS. AMIDON: Thank you.

9 CHAIRMAN GETZ: -- for the most recent
10 data request.

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

14 BY MR. PATCH:

15 Q. Mr. Errichetti, you're the person responsible for this
16 response?

17 A. (Errichetti) Yes.

18 Q. And, I mean, clearly, you know what this is. It's a
19 comparison of the timing of the bilateral strip
20 purchases that you actually made for 2010, versus the
21 timing that was referred to in the least cost planning
22 docket, is that correct?

23 A. (Errichetti) Yes.

24 Q. And, there's a pretty clear difference between the

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1 methodology that was represented, I think as you said
2 before, may be indicative of the process in 2007,
3 versus what was done for 2010. Is that fair to say?
4 A. (Errichetti) I'm very glad you're bringing this up.
5 Q. Is that your answer?
6 A. (Errichetti) Yes.
7 Q. Okay. So, you admit that there's a pretty clear
8 difference?
9 A. (Errichetti) Yes. The response is, in hindsight, what
10 has turned out to be the case for 2010. Had I done
11 this same exhibit looking forward, it would have looked
12 radically different. As I mentioned before, sales are
13 down 8 percent. Migration is up, well, it's at
14 27 percent, and it used to be down around 6 percent.
15 So, as fortune would have it, we stopped buying,
16 because we said "Whoa, wait a minute. Things are
17 changing rapidly, and I don't think we should continue
18 on the path that we were on." If we had continued with
19 the purchase plan that we were mapping out in 2008,
20 which, by the way, is only really six months earlier
21 than the beginning of '09, that 100 percent 15 months
22 out would have been more like, I don't know,
23 10 percent. But, instead it's 100 percent, because
24 it's all we bought.

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1 Q. It's clearly different than what was followed in 2007
2 though?

3 A. (Errichetti) Because, in 2007, when we were buying in
4 2006, we didn't experience the kind of migration and
5 loss of sales that we've experienced in the last, you
6 know, 18 months.

7 Q. No, but that's not the point, is it? Isn't the point,
8 you know, the timing of the buying? It isn't so much
9 about the migration, but that, whether you were going
10 to have migration or not, the timing --

11 A. (Errichetti) Even if I had --

12 Q. Could I finish my question please. Isn't it more about
13 the timing of the buying than about the migration?

14 Because the timing here was clearly significantly

15 different than what was done in 2007 and what was
16 represented to this Commission as being the plan for
17 the future.

18 A. (Errichetti) Aside from disagreeing with you with
19 respect to what the plan might or might not have been,
20 I think, and this is somewhat speculative, but, if we
21 had started the purchases in March of -- January to
22 March of 2009, chances are that would have been the
23 100 percent value, and that I still would show zeros in
24 all the nearer months, because migration took off

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1 pretty much in the first quarter of 2009. So, I would
2 have -- I would have forecasted a gap six months later
3 than what this reflects. The sales, the new sales
4 forecast would have come in and said "your load's
5 gone." Migration would have kicked in and said "you've
6 got nothing to serve." And, I would have ended up with
7 100 percent of my purchases all occurring 12 months
8 earlier than the need. It's very dynamic, it's not
9 static.

10 Q. I mean, I don't disagree that it's dynamic, not static.
11 But, if you tell the Commission you've got a certain
12 plan and a certain methodology that you follow, and
13 then you don't follow it, and then, in retrospect, the
14 decision that you made clearly was not a good one,
15 then, you know, how does that benefit PSNH's customers?

16 A. (Errichetti) Well, while I don't agree with much of
17 what you just said, I will say that stopping the
18 purchase strategy that was approved by management, by
19 going back to management and saying "Hey, the
20 fundamentals are all changing. We should stop buying."
21 I don't think the Commission would be upset with us
22 that we didn't buy 500 megawatt-hours per hour, let's
23 say, when we should have stopped at 100. Or, we didn't
24 buy 700, because that's what the plan said to do, when,

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1 in reality, we only needed 150. Which is what the plan
2 that's in the Least Cost Plan would have had us do.

3 Q. But shouldn't the Commission be upset with you because
4 you ended up buying power that was far more expensive
5 than the power you would have bought if you bought in
6 March, if you began in March or April of 2009, as the
7 Least Cost Plan said? So, shouldn't the Commission be
8 upset with you because you didn't follow that process,
9 and, as a result of that, customers are on the hook.
10 And, if you have it your way, all customers, not just
11 ES customers, are on the hook for the bad decision you
12 made?

13 A. (Errichetti) No.

14 Q. Okay. You're familiar, are you not, with the statute
15 that was cited in the order of notice, and that is the
16 basis for PSNH being able to recover the costs of
17 providing Default Service, RSA 369-B:3, IV,
18 subparagraph (b), subparagraph (1)(a)? Are you
19 familiar with that?

20 A. (Errichetti) No.

21 Q. Well, that's the one that says "the price of such
22 default service shall be PSNH's actual, prudent, and
23 reasonable costs of providing such power as approved by
24 the Commission." Does that ring a bell?

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[WITNESS PANEL: Baumann|Errichetti]

- 1 A. (Errichetti) I am aware of that. I've heard it said
2 many times. I understand PSNH's position as to what
3 "actual" and "prudent" mean.
- 4 A. (Baumann) Mr. Patch, I --
- 5 Q. What about "reasonable"?
- 6 A. (Errichetti) That too.
- 7 Q. Go ahead, Mr. Baumann.
- 8 A. (Baumann) I was going to say that I'm probably a little
9 more familiar with that than Mr. Errichetti.
- 10 Q. Okay. That's fine. I'm happy to ask you the questions
11 I was going to ask about this.
- 12 A. (Baumann) I don't want to encourage you, but go ahead.
- 13 Q. Okay. So, it's clear that the price of the Default
14 Service has to be those three things. Has to be
15 "actual", has to be "prudent", has to be "reasonable",
16 is that fair?
- 17 A. (Baumann) Yes.
- 18 Q. And, as I understand your rebuttal testimony, and I'm
19 looking at Page 6, Lines 18 to 21, it's your testimony
20 that "it is impossible to determine whether the cost of
21 providing Default Service is prudent in advance of the
22 time the cost is incurred." Is that correct?
- 23 A. (Baumann) Well, we're saying that you don't know what
24 actual is prior to actual. Certainly, we don't know

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1 what the actual will be tomorrow until tomorrow
2 happens.

3 Q. But part of what we're talking about here, aren't we,
4 are costs that were incurred in 2008?

5 A. (Baumann) Yes.

6 Q. So, you know what those are, don't you?

7 A. (Baumann) Costs incurred in 2008 or are you talking
8 about the 2008 purchases for 2010?

9 Q. That's what I'm talking about.

10 A. (Baumann) Okay. In 2008, we entered into some
11 contracts for a very small portion of the gap at the
12 time in 2008. In 2008, there was a very unprecedented
13 run-up in commodity prices. As Mr. Errichetti
14 testified before, the \$140 a barrel of oil, there were
15 pros or experts saying it was going to go to 200,
16 potentially. So, at the time, the Wholesale Marketing
17 Group, and I was actually part of those limited
18 discussions at a time, made a decision with upper
19 management that they should go out and purchase a very
20 small portion of the perceived gap at that time. And
21 that, as they entered into 2009, they recognized that
22 perceived gap was shrinking, and they backed off and,
23 in fact, did not purchase in 2009. And, I believe
24 that, to go to your statute, that that was a

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1 "reasonable" course of action to take. And, I'm glad
2 they didn't go out in 2009 and purchase more ahead of
3 the market, because they would have been purchasing for
4 a gap that ultimately did not occur because of
5 migration.

6 Q. Of course, if you had followed the timeframes that were
7 included in the 2007 Least Cost Plan, you would have
8 had a better sense of what migration was going to
9 occur, though, right?

10 A. (Baumann) In hindsight -- you know, in hindsight, if
11 you had -- I mean, if you look at what was going on in
12 '09, the migration had fallen drastically at the end of
13 2009 -- or, excuse me, 2008. So, to say that we would
14 have done something differently, you know, it's -- I
15 don't think we would have. I think the actions we took
16 in 2008 were reasonable. We did not go out and
17 purchase 100 percent of the gap, as perceived in 2008.
18 We went out and purchased 5 percent of the gap, which
19 was 2 percent of the overall requirements for PSNH. I
20 don't think that that's an unreasonable action to take
21 at the time, at the time that the prices were at an
22 all-time high, and there were those on the street that
23 were saying they were going to go up significantly
24 higher. So, it was part of the hedging strategy. I

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1 think it was reasonable and conservative. And, I think
2 the fact that it doesn't comply exactly with what you
3 claim to be the hard-core rules of the Least Cost Plan,
4 that's because we -- part of our plan is to remain
5 flexible to that plan. And, that was part of the
6 flexibility, and it was a very small, conservative
7 piece that they transacted in 2008.

8 Q. Could we just, because I think it would be helpful to
9 clarify the record, where you get that 2 percent figure
10 from? Could you explain that?

11 A. (Baumann) I got it from Mr. Errichetti. I'm sure he
12 could explain it.

13 A. (Errichetti) In the Summer of 2008, we forecast a 2010
14 energy requirement of 8,900 gigawatt-hours. If you go
15 and you look at the supplement to Staff 6, the 2010 --
16 well, this is sales, so you have to adjust it by BP
17 [sic], but it's now at 7,800 gigawatt-hours. That's an
18 8 percent drop in the sales forecast from when we were
19 developing the procurement strategy for 2010 that led
20 to these handful of purchases.

21 At that time, we estimated that our own
22 generation, our purchased power agreements, Vermont
23 Yankee, the IPPs, the wind project, would supply about
24 54 percent of that 8,900 gigawatt-hours. The purchases

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1 that we've been talking about represent, on energy, and
2 I'm about to give away something that was kind of
3 confidential, about 2 percent of that total
4 requirement, or about 5 percent of that gap. Now, as
5 I've said, not all that gap was going to be bought, but
6 we were going to buy a good deal of it before 2010.
7 And, that's where those numbers are coming from.

8 Q. So, I mean, those are numbers that weren't provided to
9 TransCanada because of the confidentiality.

10 A. (Errichetti) Yes. And, what's happened is, in order to
11 explain things better, for everyone to better
12 understand what's going on, things that we would prefer
13 to keep to ourselves are ending up in the record.

14 Q. And, so, total purchase numbers you're saying should be
15 kept confidential. Your customers shouldn't be able to
16 know those?

17 MR. EATON: I think he's saying the
18 2 percent of total purchases --

19 MR. PATCH: I would ask that the witness
20 answer, not the attorney.

21 MR. EATON: Well, he's once again going
22 after confidential information, which -- and TransCanada
23 did not file a motion for rehearing of the Commission's
24 decision to limit them in access to information, and now

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1 he's trying to get it out through cross-examination, and
2 the witness is trying to be careful.

3 MR. PATCH: Well, Mr. Chairman, if I
4 could respond.

5 CHAIRMAN GETZ: Well, let me say this.
6 I think, because we're going down a path that I don't
7 think we need to. I think your question to the witness
8 was paraphrasing the witness's response, so I think it's a
9 proper basis for an objection by counsel. And, counsel
10 now has gone into a different issue. So, I'd like to get
11 back to the issues that we need to deal with that's in
12 this case. So, if you could proceed with your
13 examination, that would be helpful.

14 BY MR. PATCH:

15 Q. Are we talking basically about a million megawatt-hours
16 of known purchases?

17 A. (Errichetti) No.

18 Q. Why not?

19 A. (Errichetti) Because it's a lot smaller than that.

20 Q. Explain please.

21 A. (Errichetti) It's -- well, boy. All right. No, it's
22 not that big. Well, I said 2 percent of 8,900. It's
23 more on the order of 200 gigawatt-hours, not a million
24 -- not a thousand gigawatt-hours.

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1 Q. And, let's just be clear, "200" represents what?

2 A. (Errichetti) What do you mean "what's it represent?"

3 Q. Well, what's included?

4 A. (Errichetti) 200 gigawatt-hours.

5 Q. What is --

6 A. (Errichetti) It's an energy strip. We've been talking
7 about energy purchases.

8 Q. Purchased when?

9 A. (Errichetti) In late Summer 2008.

10 Q. Okay. So, it's only that portion of the strips that
11 you're talking about?

12 A. (Errichetti) Those are --

13 Q. You're not talking about --

14 A. (Errichetti) Those are all the strips.

15 CHAIRMAN GETZ: Well, gentlemen, we need
16 to have one person speaking at a time or Mr. Patnaude is
17 not going to be able to get this on a transcript. So,
18 have you completed your answer, Mr. Errichetti?

19 WITNESS ERRICHETTI: Yes.

20 BY MR. PATCH:

21 Q. Okay. Mr. Errichetti, I'm going to direct you to back
22 in the original filing, RAB-2, Page 3, and it's Line
23 24. And, there's a total there for "known energy
24 purchases".

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1 CHAIRMAN GETZ: Can we get that site
2 again please?

3 MR. PATCH: RAB-2. Attachment -- It's
4 Page 3 of RAB-2. It's the attachment to the 09/24/08
5 Baumann testimony. And, it's Line 24, the far right
6 column, "known purchases", "1,043,289 gigawatt-hours".

7 WITNESS ERRICHETTI: Yes.

8 BY MR. PATCH:

9 Q. Okay. I'm sorry, it's 1,043.289 gigawatt-hours. Those
10 are the known purchases, right?

11 A. (Errichetti) Yes.

12 Q. Okay. So, can you put that in the context of your
13 earlier explanation, just so we're clear on the record?

14 A. (Errichetti) The 2 percent that we've been talking
15 about, the energy strips are in that value. There are
16 other long-term purchases in that row, because they're
17 not IPPs, they're not Vermont Yankee, and they're not
18 owned generation.

19 Q. Okay. Well, let's go back to the response that you
20 filed where it showed 100 percent of the purchases were
21 made prior, at least 15 months prior. You know, the
22 response that I showed you before, I think it was 15,
23 wasn't it?

24 MR. EATON: Exhibit 12.

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[WITNESS PANEL: Baumann|Errichetti]

1 BY THE WITNESS:

2 A. (Errichetti) That question, that question referred to
3 bilateral strip purchases, because that's what was
4 discussed in that part of the supplemental power
5 procurement strategy.

6 BY MR. PATCH:

7 Q. And, how does that relate to this number that I just
8 pointed you to on Line 24?

9 A. (Errichetti) It's in there.

10 Q. It's in there. But it's only part of it, you're
11 saying?

12 A. (Errichetti) Yes.

13 Q. And, what else is in there?

14 A. (Errichetti) Other purchases.

15 Q. Made when?

16 A. (Errichetti) Well, I'd refer you back to, what is it,
17 TC, and I've lost it again, TC-021, Supplement 1. It
18 includes purchases from January 2002, October 2007,
19 January 2008, August 2008, September 2008.

20 Q. Well, aren't the purchases that you're talking about,
21 that you say are not included, aren't those ones that
22 were made for 2010 or were they made for some other
23 purpose?

24 A. (Errichetti) They span 2010. Some are multiyear deals

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1 that go well beyond 2010. Some started before 2010 and
2 go to 2010. But the question you had asked was, you
3 know, about bilateral strip purchases.

4 Q. Okay. Back to the prudence issue that we were talking
5 about, Mr. Baumann. I have one document I'd like to
6 have marked as the next exhibit. And, I'd like to show
7 you an excerpt from it.

8 MR. PATCH: This is a November 30th,
9 2009 letter from Terry Large at PSNH, to Robert Scott at
10 DES.

11 CHAIRMAN GETZ: Okay. We'll mark this
12 for identification as "Exhibit 13".

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

16 BY MR. PATCH:

17 Q. And, I want to direct your attention to a discussion of
18 the prudence issue that Mr. Large put in this letter.
19 And, I'm over on -- the pages aren't marked, but it's
20 the third page. And, it's the first full paragraph,
21 beginning with the second sentence. And, I'm going to
22 read this, and I'd ask you if I read it correctly,
23 first of all. It says "A test for the rationality of a
24 proposed approach" --

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- 1 A. (Baumann) Hang on for one second. Is it the second
2 paragraph?
- 3 Q. It's the first -- I think it's the first full, maybe
4 it's the second paragraph, it begins "PSNH contends".
5 And, it's the second sentence.
- 6 A. (Baumann) I've got it now. Thank you.
- 7 Q. Okay. "A test for the rationality of a proposed
8 approach is the prudence standard to which PSNH is held
9 by the New Hampshire Public Utilities Commission.
10 Would the PUC determine that PSNH acted in accordance
11 with the best interests of its customers if it
12 purchased higher priced allowances when lower priced
13 allowances were still viable for compliance purposes?
14 Would such behavior withstand the scrutiny of
15 regulators from an economic standpoint? Unjustifiably
16 costly decisions by a regulated utility would be deemed
17 imprudent and excess costs disallowed by the PUC." Did
18 I read that correctly?
- 19 A. (Baumann) Yes.
- 20 Q. Is that the right standard that ought to be applied to
21 the -- to the purchases that were made for the ES rate
22 for 2010?
- 23 A. (Baumann) Again, could you -- I'm reading this a little
24 out of context. What are you saying that this says the

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[WITNESS PANEL: Baumann|Errichetti]

1 standard is?

2 Q. Well, I'm not saying, Mr. Large is saying what the
3 prudency standard is that PSNH is held to. And, I'm
4 asking you, is that the standard, the prudency standard
5 that should be used to assess the purchases that were
6 made for 2010 for the ES rate?

7 A. (Baumann) I don't think -- I don't think he's talking
8 about a prudency standard here. I mean, it's --

9 Q. Oh, he isn't? On Line 4, "prudency standard"?

10 A. (Baumann) "A test for the rationality of a proposed
11 approach is the prudency standard for which we are
12 held."

13 Q. So, you don't think he's talking about the "prudency
14 standard"?

15 A. (Baumann) I think he is.

16 Q. Oh, he is.

17 A. (Baumann) But you're asking me if this "defines it"?
18 And, I don't see him defining it. He gives an example
19 that, if you were to purchase something at a higher
20 price than what was available at a lower price, I mean,
21 when we purchased in 2008, we purchased at market. So,
22 there wasn't anything available at a lower price. So,
23 if you want me to try and dovetail into this paragraph
24 taken out of context, prudency is -- prudency is judged

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[WITNESS PANEL: Baumann|Errichetti]

1 at the time that you -- with the facts and reasonable
2 facts available at the time. Not two years later in a
3 hearing room, where somebody says "well, gee, if you
4 had held off". Well, at the time, it was deemed
5 prudent by our management to go ahead and purchase a
6 small portion of our requirements for 2010 in 2008.

7 Q. But, when you say "not two years later in a hearing
8 room", if I look at your rebuttal testimony at the
9 bottom of Page 6, Lines 19 to 21, it says "Actual costs
10 and prudence is determined after-the-fact and any
11 adjustments as a result of any Commission findings are
12 included in the reconciliation of actual and estimated
13 costs." But, I mean, isn't your point here that
14 prudence ought to be done significantly after-the-fact,
15 maybe two years later in a hearing room. Shouldn't be
16 done now. Wasn't that your argument there?

17 A. (Baumann) A finding, an evaluation of prudence, you
18 have to go through the actual data to get to a prudence
19 evaluation. I agree with you. What you asked me on
20 this paragraph in Mr. Large's testimony is -- it says
21 "if it purchased higher priced allowances when lower
22 priced allowances were still viable for compliance
23 purposes." By that, I mean, "still viable", i.e. were
24 available. And, I think that is -- you know, I don't

[WITNESS PANEL: Baumann|Errichetti]

1 disagree with that. If Mr. Errichetti's testimony
2 today was "we went out in 2008 and we purchased at
3 market", that was his testimony, and then he said
4 "however, there were other things below market that
5 were available at the time, we just didn't purchase
6 them." Well, I don't think that would be very prudent,
7 but that's not what happened.

8 Q. So, the choice of when to buy isn't part of the
9 prudence determination? Whenever you buy, you just
10 look at that time and that's it?

11 A. (Baumann) No. You certainly make reasonable purchasing
12 assumptions at every period of time, every time you
13 purchase, there's a time involved in it. And, at the
14 time, in 2008, it was determined that a very small
15 portion of the need would be purchased ahead.

16 Q. If I understand you correctly, Mr. Baumann, your
17 recommendation to the Commission here is that it should
18 consider passing the difference between what Default
19 Service would have cost with no migration, against what
20 it is costing or what you would say it is costing with
21 27 percent migration, that that difference ought to be
22 part of a nonbypassable charge assessed on all
23 customers, not just the ES customers, is that correct?

24 A. (Baumann) My testimony said that that is a method,

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[WITNESS PANEL: Baumann|Errichetti]

1 that's Method 1 that you described, that should be
2 reviewed in the future and considered. I'm not
3 recommending that today. But I'm taking the facts as
4 they stand today and recommending that that's something
5 that at least should be considered by all parties.

6 Q. And, I think, in response to a question that we asked,
7 it was Q-TC-008-02, where we asked "should it be done
8 in a separate docket", you basically said "no". But I
9 heard you this morning say that you thought it could be
10 considered in a separate docket. So, I just want to be
11 clear about what you're recommending to the Commission.

12 A. (Baumann) If I recall that request, I think it said
13 "should it be done here or here", and I said "no, it
14 doesn't" -- could you refer me to the request?

15 Q. Yes. It's Q-TC-008-02. And, I have an extra copy.

16 CHAIRMAN GETZ: Do we really need to go
17 back through this? And, isn't the question is like "what
18 are you recommending now?"

19 MR. PATCH: Yes, that's right.

20 BY THE WITNESS:

21 A. (Baumann) We're recommending that the Commission defer
22 review of Method 1 at this time in this docket. And,
23 we would suggest that either this docket remain open
24 for all parties to look at this. Certainly, if the

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[WITNESS PANEL: Baumann|Errichetti]

1 Commission wanted to open up a separate docket, that
2 would be fine as well.

3 BY MR. PATCH:

4 Q. Don't you think it would fairer to all parties that
5 could be affected by that if it were opened as a
6 separate docket and properly noticed, and anybody who
7 had an interest in it would have a full opportunity to
8 participate?

9 A. (Baumann) Again, that would be fine. "Fairer"? It
10 probably would allow a potential party that missed the
11 noticing of this docket to get involved, yes.

12 Q. Okay. Thank you. By making this suggestion about what
13 to do with the -- I guess what you've referred to
14 alternatively as "fixed costs", or I think you've used
15 some other phraseology for it, but this 5 percent, I
16 think, of the total that you want at least the
17 Commission to consider doing it as a nonbypassable
18 charge, by making this suggestion, are you telling the
19 Commission that you consider these costs to be stranded
20 costs that all ratepayers should recover?

21 A. (Baumann) Our testimony says that they are, we believe,
22 an unintended consequence of restructuring today.
23 Again, I'm not going to sit here and give an opinion,
24 excuse me, an opinion as to whether they're stranded

[WITNESS PANEL: Baumann|Errichetti]

1 costs, because that's something that -- and that's why
2 we've asked to defer this issue, because that is one,
3 one piece of the puzzle that we would have to look at
4 and have further scrutiny before we would make a
5 proposal. And, that's why we didn't make a proposal
6 for Method 1 at this point, or at least a proposal to
7 change the rate.

8 Q. So, when you say they're "unintended consequences of
9 restructuring", I guess you're saying "they're not
10 stranded costs" or "they are stranded costs"? I was
11 unclear in your answer.

12 A. (Baumann) I said "I really haven't made that
13 determination."

14 Q. Okay. You saw Mr. Mullen's testimony on the issue of
15 stranded costs, did you?

16 A. (Baumann) Yes.

17 Q. Whether this qualifies. Did you agree with his
18 analysis?

19 A. (Baumann) I'll trying to recall his whole testimony.
20 Would you like me to review it?

21 Q. No, that's okay. Why don't we skip over that. In
22 terms of the "unintended consequences" portion of your
23 testimony, as part of restructuring, weren't customers
24 expected to migrate to competitive suppliers?

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[WITNESS PANEL: Baumann|Errichetti]

1 A. (Baumann) No, I don't think they were "expected to
2 migrate". There was an expectation that that was a
3 path that they could take.

4 Q. Wasn't what the New Hampshire law refers to as
5 "Transition Service" and even "Default Service",
6 weren't they envisioned as being sort of temporary
7 fixes, that, ultimately, customers would go to the
8 market and shop and obtain the best rate they could?

9 A. (Baumann) I think that was, in theory, the grand idea.
10 And, that, obviously, what many people felt back in the
11 restructuring days was going to happen quickly didn't
12 happen. I mean, certainly, restructuring anticipated
13 the sale of generation. And, you know, to get into a
14 scenario that Connecticut and Massachusetts, we were
15 talking about with Mr. Rodier today, to get into that
16 type of situation, where you're selling your generation
17 and you go out with just market RFPs for 100 percent of
18 your load. That didn't happen. The Legislature, I
19 think, in hindsight, made a correct decision not to
20 sell PSNH's generation, and saved the customers
21 hundreds of millions of dollars.

22 Q. When you say "back in the restructuring days", you
23 don't think we're still in restructuring days, I take
24 it?

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[WITNESS PANEL: Baumann|Errichetti]

- 1 A. (Baumann) Back when restructuring was adjudicated and
2 put forth, and the restructuring legislation was
3 enacted and followed by all parties.
- 4 Q. And, much of which is still on the books today and
5 should be followed by all parties, is that fair to say?
- 6 A. (Baumann) Well, whatever's on the books today should be
7 followed, yes.
- 8 Q. What's your understanding of the term "exit fee"?
- 9 A. (Baumann) My understanding of "exit fee" is, if you
10 exit Standard Service or Default Service, that you pay
11 a fee for such exit in one form or another.
- 12 Q. And, are you familiar with the provision in New
13 Hampshire law that Mr. Mullen cited in his prefiled
14 testimony that said "exit fees are not a preferred
15 recovery mechanism", he cited to New Hampshire -- a
16 part of the New Hampshire restructuring?
- 17 A. (Baumann) I think I've either read it or heard it in
18 the past, yes.
- 19 Q. And, so, if the Commission were to approve a
20 nonbypassable charge to customers who left Default
21 Service, can you explain to me why that would or would
22 not be an exit fee?
- 23 A. (Baumann) I'm sorry. Could you repeat the question.
- 24 Q. If the Commission were to go along with your

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1 recommendation that it establish a nonbypassable charge
2 to customers who leave the Energy Service, the Default
3 Service being provided by PSNH, can you explain to me
4 why that would or would not be considered to be an exit
5 fee?

6 A. (Baumann) Well, first of all, we wouldn't establish a
7 new rate. And, secondly, it wouldn't just be for those
8 who left. Again, if you took into consideration Method
9 1, and removed certain costs from the Energy Service
10 and put them into a nonbypassable charge, like the
11 SCRC, all customers would pay for it. Your
12 definitions, you know, I would say that that would be
13 more of a cost charged to all customers for the benefit
14 of backup supply, you know, supplier-of-last-resort
15 that we've talked about. But, again, that's part of
16 Method 1, which we're not proposing here today. We're
17 really just proposing that the Commission look at it in
18 the future.

19 Q. With regard to your rebuttal testimony, Page 4, Line 9,
20 as I understand your argument here, it's essentially
21 that "there would be a significant price premium for a
22 third party to take on [a] power supply obligation" if
23 there were an RFP process being used, is that correct?

24 A. (Errichetti) It's what we wrote.

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- 1 Q. Okay.
- 2 A. (Baumann) Yes.
- 3 Q. But it's not correct or it is correct?
- 4 A. (Baumann) Well, it's our testimony.
- 5 A. (Errichetti) The assumption is it's not a fully
6 tracking RFP. With that caveat, we believe there would
7 be a significant risk premium built into the price.
- 8 Q. Do you want to amend your testimony to add that to it
9 then?
- 10 A. (Errichetti) No, it's in there.
- 11 Q. Okay. Point --
- 12 A. (Errichetti) It says "At [this] time PSNH noted that
13 there would be a significant price premium for a third
14 party to take on this power supply obligation, assuming
15 there was no cost reconciliation process with prudence
16 review."
- 17 Q. Okay. So, you're saying the reconciliation process is
18 the tracking mechanism?
- 19 A. (Errichetti) Yes.
- 20 Q. Okay. Wouldn't such a premium vary, depending on a
21 number of different factors?
- 22 A. (Errichetti) I think I have to say I agree.
- 23 Q. Okay. So, and those factors might be things like which
24 class of customers are being put out for an RFP?

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- 1 A. (Errichetti) I'm thinking more about where market
2 prices may go, and the willingness of the customer to
3 go back to -- I mean, go to a third party supply,
4 etcetera.
- 5 Q. On Lines 13 and 14 there, I think related to this
6 argument, you said "suppliers include a profit margin
7 in the pricing that they submit in response to an RFP,
8 whereas PSNH does not include any profit in its
9 purchased power costs." Did I read that correctly?
- 10 A. (Errichetti) Yes.
- 11 Q. Are you telling this Commission that, when you go out
12 and purchase power on the market, there's no profit
13 built into those purchases?
- 14 A. (Errichetti) PSNH does not build a profit into those
15 prices.
- 16 Q. Okay. Well, but what's the point here? I mean, if
17 there was an RFP, there would be a profit built in.
18 There's a profit built in when you go out and purchase
19 it, isn't there?
- 20 A. (Errichetti) When we have to buy energy to fill the
21 gap, we pass that price onto customers
22 dollar-for-dollar. If we were to go out and require a
23 third party to supply that gap, they would have to
24 include, on top of the same market price we pay for

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1 that energy, an additional charge to cover their
2 profits, to cover their administration, that sort of
3 thing. So, what I'm saying is, if you -- all else
4 being equal, if I go to a broker and buy a strip, and
5 it's \$50, I take the \$50 and I put it into the ES rate
6 at \$50. If I turn around and ask you to do it, you're
7 going to build in a profit and you're going to build
8 in, well, assuming that you took on the risk and you
9 bought the power supply, you wouldn't necessarily add
10 anything for volatility, but you do have to consider
11 the possibility that some of the strip you bought is
12 surplus to load, and you have to manage the risk of
13 selling that and losing money and absorbing that into
14 the price. What I'm saying is, we pass it through
15 dollar-for-dollar. We think that a third party would
16 add to it. You want to call it a "risk premium", you
17 want to call it "profit", if it's both, there's
18 something there.

19 Q. Do you ever buy from brokers?

20 A. (Errichetti) Yes. Well, I don't personally, but PSNH
21 and NU do, yes.

22 Q. Isn't there a broker fee on top of whatever underlying
23 profit there is?

24 A. (Errichetti) Anybody who buys from a broker pays that,

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1 and we pass that through dollar-for-dollar.

2 Q. Well, the "dollar-for-dollar" point, though, if there
3 was an RFP, obviously, whatever the cost, would be
4 passed through dollar-for-dollar to customers, right?

5 A. (Errichetti) Yes. But I'm not referring to that. I'm
6 referring to the third party, who's now providing that
7 service, has to pay for their service.

8 Q. Well, the broker, you're paying for the broker service,
9 though, aren't you?

10 A. (Errichetti) Everyone who buys from a broker pays for
11 the broker. Whether it's PSNH, Freedom, TransCanada
12 Power Marketing, whoever. If you buy from a broker,
13 you pay a commission, a transaction fee.

14 Q. There's a cost to PSNH and to PSNH customers, isn't
15 there, of providing power trading activities? And, I
16 refer you to the response to Q-TC-012, Set 1.

17 MR. PATCH: And, I'm going to hand out a
18 copy and ask that it be marked as the next exhibit.

19 WITNESS ERRICHETTI: Could you repeat
20 the number?

21 MR. PATCH: Q-TC-012, Set 1.

22 CHAIRMAN GETZ: Okay. We'll mark this
23 for identification as "Exhibit Number 14".

24 (The document, as described, was

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1 herewith marked as Exhibit 14 for
2 identification.)

3 BY MR. PATCH:

4 Q. This is a question where we had asked you "Please
5 provide a budget that details the total cost of
6 providing power trading activities for PSNH." And,
7 your response?

8 A. (Errichetti) I still haven't found it.

9 Q. Do you want me to give you a copy? I have an extra
10 copy.

11 A. (Errichetti) Please.

12 A. (Baumann) That would help.

13 (Mr. Patch handing document to the
14 witnesses.)

15 BY MR. PATCH:

16 Q. Your response to the data request was "There is no
17 specific budget item for power trading activities.
18 However, information related to the services provided
19 by the Northeast Utilities Wholesale Power Contracts
20 group for 2008 has been provided in Docket 09-091 in
21 responses to", and then you list the data requests.
22 And, at least -- and, those two responses are attached
23 to what I handed to you and what I've asked to be
24 marked as an exhibit. So, is this what you would

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1 suggest to the Commission is the budget or the cost to
2 PSNH ratepayers or some portion of this that details
3 the total cost of providing power trading activities
4 for PSNH?

5 A. (Errichetti) This represents the portion of my
6 department's budget that gets charged off to ES. And,
7 one of the roles my department plays or serves, or
8 whatever the right English is, is to purchase power. I
9 mean, what I'm doing here today is charged to ES.

10 Q. Okay. All right. I'm going to shift to a somewhat
11 different subject matter. And, Mr. Baumann, I think
12 you're probably the right person, but, if not, Mr.
13 Errichetti, you can answer. Is the price of natural
14 gas, does it have an effect on market prices in New
15 England?

16 A. (Errichetti) Yes.

17 Q. Significant would you say or --

18 A. (Errichetti) There's a very strong correlation between
19 gas prices and electric prices most of the time.

20 MR. PATCH: Okay. Well, Mr. Rodier
21 referred to this this morning, but there was a response to
22 Q-TC-003, second set. And, this was a data request
23 related to your statement that "low natural gas prices may
24 be short-lived". And, you cited an article from Time

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1 Magazine. I'd like to hand that out to the Commission, if
2 I could. They're probably two different exhibits. One is
3 the response to the data request and the other is the Time
4 Magazine article.

5 (Mr. Patch distributing documents.)

6 MR. PATCH: So, maybe if we mark first
7 the response to Q-TC-003, second set.

8 CHAIRMAN GETZ: Okay. We'll mark for
9 identification as "Exhibit Number 15" the response to
10 TransCanada Request 2-3, and we'll mark the Time Magazine
11 article as "Exhibit 16".

12 (The documents, as described, were
13 herewith marked as Exhibit 15 and
14 Exhibit 16, respectively, for
15 identification.)

16 BY MR. PATCH:

17 Q. Mr. Baumann, I think you were the responder on this
18 particular data request. Are you familiar with the
19 term "shale gas"?

20 A. (Baumann) I have heard the term before. And, they're
21 finding new shale deposits. But just what I've kind of
22 read in the headlines.

23 Q. And, do you see anywhere in this Time Magazine article
24 that it mentioned "shale gas" at all and what impact

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1 that might have on the price of gas?

2 A. (Baumann) It may take me a few minutes to read this
3 whole article, but --

4 Q. Well, if I represented to you and could you take
5 subject to check that it isn't mentioned at all in the
6 article?

7 A. (Baumann) That it is not?

8 Q. Is not. Again, subject to check?

9 A. (Baumann) Certainly, subject to check. I trust you.

10 Q. And, do you ever read the Wall Street Journal?

11 A. (Baumann) On occasions, yes.

12 MR. PATCH: I would like to have marked
13 as the next exhibit a Wall Street Journal article that was
14 -- I think it was an op-ed piece, actually, November 2nd,
15 2009, entitled "America's Natural Gas Revolution", and the
16 subtitle of "A 'shale gale' of unconventional and abundant
17 U.S. gas is transforming the energy market." It's by
18 Daniel Yergin and Robert Ineson.

19 (Mr. Patch distributing documents.)

20 CHAIRMAN GETZ: Okay. We'll mark this
21 for identification as "Exhibit Number 17".

22 (The document, as described, was
23 herewith marked as Exhibit 17 for
24 identification.)

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1 WITNESS ERRICHETTI: This is 17?

2 BY MR. PATCH:

3 Q. Have you ever seen this article, Mr. Baumann?

4 A. (Baumann) No.

5 Q. Okay. Well, if I represent to you that this discusses
6 what is basically a significant change in the
7 production of natural gas as a result of new techniques
8 for extracting gas, would you be willing to take that
9 subject to check?

10 A. (Errichetti) If you're saying this is the article that
11 Mr. Yergin published that says "shale gas is the new
12 panacea for energy", that this is the article, then I
13 guess, subject to checking it out thoroughly, yes.
14 What I find interesting is shale gas has become the
15 deep Gulf gas of this decade or the next decade, and
16 it's the LNG of the last decade. And, it will be very
17 interesting to see how shale gas really plays out over
18 the next decade.

19 I've been reading a lot about local
20 environmental concerns about the fracturing fluids
21 being spilled and contaminating groundwater, and an
22 uproar about how the state DEPs, or whatever the proper
23 term is for a particular state, is managing it. I just
24 read in SNL tens of thousands of gallons of

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1 hydrochloric acid were spilled, either in Pennsylvania
2 or New York. And that, you know, they acted swiftly
3 and quickly to contain it. But, you know, hydrochloric
4 acid in your drinking supply is not a good thing.

5 So, I've heard, you know, that the Mars
6 -- is it -- this is the Marcellus, you know, in New
7 York and Pennsylvania is the panacea. But I think only
8 time will tell what this really means. I think I'm
9 answering for Mr. Baumann.

10 Q. Okay. That's fine.

11 A. (Errichetti) But I've been in the industry going on two
12 and a half -- well, three decades. And, you know, deep
13 water Gulf was the solution, and then LNG was the
14 solution. Now, "Marcellius", "Marcellus", or however
15 you say it, is the solution. I hope they're right.

16 Q. But I think the point here is that this is having an
17 impact on gas prices, isn't it? Or, do you think it is
18 or do you think otherwise?

19 A. (Errichetti) I think it's creating -- at the moment,
20 the euphoria is creating downward pressure. In six
21 months, if the states decided to ratchet up the
22 pressure on the fracturing fluids, and there's actually
23 a halt to drilling until all those rules are ironed
24 out, you could see a dramatically different outcome of

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1 this in the near future.

2 Q. This isn't something that was just talked about in this
3 Yergin article, though, is it? I've got two other
4 articles here I can introduce. One from --

5 CHAIRMAN GETZ: Well, before we go down
6 that path, Mr. Patch, can we establish what the purpose is
7 and what the link is to this proceeding?

8 MR. PATCH: Sure.

9 CHAIRMAN GETZ: Are you offering this
10 exhibit in rebuttal to the Company's, you know, reference
11 in the initial position to the Time Magazine article or
12 are you offering it for the proof of the facts? I mean,
13 --

14 MR. PATCH: Yes.

15 CHAIRMAN GETZ: -- I need to see the
16 link.

17 MR. PATCH: Okay. I think there are a
18 couple of links, Mr. Chairman. One of them is a statement
19 by Mr. Baumann that "low natural gas prices may be
20 short-lived." And, I think, if you read the literature --

21 CHAIRMAN GETZ: So, that's what you're
22 offering Exhibit 17 is in rebuttal to that statement?

23 MR. PATCH: That's right, partly in
24 rebuttal to that. I think it's also partly to show that

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1 there is, and the other two articles I have would show
2 this as well, going back as far as June of 2008, that
3 there is other literature out there, other than the Time
4 Magazine article, that, in fact, provides a much more
5 comprehensive discussion of what's going on with natural
6 gas production. And, so, to the extent that they're
7 relying on the Time Magazine article to support
8 Mr. Baumann's contention, I think they ought to look a
9 little further. Because I think these other articles
10 support the fact that low natural gas prices may be
11 something that's more than short-lived. I mean, we don't
12 know, as Mr. Errichetti said, we don't -- certainly don't
13 know for sure. But, I think, if you look at the
14 literature, I think if you go to conferences and meetings,
15 like the BIA conference last week, you'll find, you know,
16 --

17 CHAIRMAN GETZ: Yes. But let's get us
18 back to --

19 MR. PATCH: Okay.

20 CHAIRMAN GETZ: -- establishing the
21 Energy Service rates for 2010.

22 MR. PATCH: Yes.

23 CHAIRMAN GETZ: And, what the decision
24 we have to make in this case right now.

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1 MR. PATCH: That's right. And, I think
2 that it was clear as early as 2008, and I think long
3 before that, that natural gas prices, you know, were
4 likely to change. I think they should have taken that
5 into account when they made purchases. I think, in
6 addition to that, to the extent that they're trying to
7 represent that this is just a short-term problem, I'm not
8 sure they're right. I think it may be a longer term
9 problem. And, so, I think the issue of migration is a
10 bigger issue than what they may be trying to suggest.

11 So, that's -- I'm offering it for a few
12 different purposes, I guess.

13 CHAIRMAN GETZ: Okay.

14 MR. PATCH: But, I think, particularly
15 in rebuttal to the statement about "short-term" -- or
16 "short-lived", that the "low natural gas prices would be
17 short-lived."

18 CHAIRMAN GETZ: Okay. Continue.

19 BY MR. PATCH:

20 Q. I guess I'd like to go back just briefly to the Least
21 Cost Plan, Page 90. There's a statement there that
22 "PSNH elected to hedge a portion of the forecasted
23 supplemental requirement with an energy call option,
24 rather than with a fixed-price bilateral purchase." Do

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1 you remember that statement or should I direct you to
2 where it appears?

3 A. (Errichetti) No, I found it.

4 Q. Okay. I want to also direct your response to Q-TC-023.
5 This is marked as "MEH-5". So, it's the fifth
6 attachment to Michael Hachey's testimony. That
7 response suggests that a call option is in place, but
8 hasn't been used. Is that correct? Or, did we misread
9 that response?

10 A. (Errichetti) I guess what you can say is the call
11 option is in place, but it hasn't been triggered. Is
12 that a better way of saying it?

13 Q. You tell me.

14 A. (Errichetti) Well, what I was saying is, we have a call
15 option in place, but it's not likely to be called.

16 Q. Your response to Q-TC-013, you provided, again, this
17 has been marked as an exhibit, and, unfortunately, I
18 don't remember the number, but that was the redacted
19 version of the regulated wholesale marketing procedure.
20 And, in RWM-2, which was part of the attachment, with
21 regard to a hedging strategy team, there was a
22 statement, I'm quoting: "This team will develop a
23 recommendation for power hedging activity to be
24 utilized in the next ES rate year." Are you familiar

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1 with that?

2 CHAIRMAN GETZ: I will just note, we're
3 referring to Exhibit 10.

4 MR. PATCH: Okay. Thank you.

5 CMSR. IGNATIUS: Mr. Patch, what page
6 are you on?

7 CHAIRMAN GETZ: Is it Attachment RWM-2,
8 and --

9 MR. PATCH: I believe it's Page 1 of
10 RWM-2.

11 CMSR. IGNATIUS: Thank you.

12 BY MR. PATCH:

13 Q. Where it says "Procedure", on the left, the first full
14 paragraph, the last sentence. "This team will develop
15 a recommendation for power hedging activity to be
16 utilized in the next ES rate year."

17 A. (Errichetti) Yes.

18 Q. Was that ever done?

19 A. (Errichetti) That has been done.

20 Q. Was it done in writing?

21 A. (Errichetti) Was it done in writing?

22 Q. I mean, did you do a memo or how was it accomplished?

23 A. (Errichetti) We have meetings, we have phone calls.

24 When we want to do a purchase procurement, there's a

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1 memo prepared and sent to senior management for their
2 authorization.

3 Q. So, the answer is, you put it in writing or you didn't?

4 A. (Errichetti) If we're actually going to make a set of
5 purchase recommendations, that is put in writing,
6 because it needs to be authorized by management.

7 Q. And, so, was one done for the 2010 ES rates?

8 A. (Errichetti) There were multiple, but one particularly
9 stands out. The one that was used, the one that
10 established the purchases that we spent some time
11 speaking about earlier, yes.

12 Q. When was that done?

13 A. (Errichetti) That was done in the Summer of 2008.

14 MR. PATCH: Mr. Chairman, I'd ask a
15 record request that PSNH be required to produce that. I
16 understand that we may not have access to it, but I think
17 it would be helpful if the Commission could.

18 CHAIRMAN GETZ: Yes. Mr. Errichetti, I
19 guess I'm somewhat confused about whether -- you said it
20 would "develop a recommendation for power hedging
21 activity", I read that to mean that there was a memo
22 setting forth a practice.

23 WITNESS ERRICHETTI: There is a memo.
24 And, there would have been more for 2010. But, as events

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1 unfolded and we stopped seeking to acquire more power,
2 there was no need to issue another one. There is a memo
3 that describes what our procurement plan was, that was
4 reviewed and approved by senior management. And, we will
5 provide that to you. But I would very much like to keep
6 it confidential.

7 CHAIRMAN GETZ: All right. Well, let's
8 reserve the next exhibit number, 18, for that procedure.

9 (Exhibit 18 reserved)

10 BY MR. PATCH:

11 Q. I'm going to refer you to your rebuttal testimony,
12 Page 3, Lines 14 to 21. There's a Q&A. And, if I --
13 I'm going to try to summarize what I think your point
14 is here. Which is, if you were required to rigidly
15 adhere to the Least Cost Planning statute that requires
16 you show conformity with the prior one, then, in
17 effect, an RFP process wouldn't be allowed to be put in
18 place until -- to serve load in the 2012 ES, for the
19 2012 ES load, is that correct?

20 A. (Errichetti) Thinking through the suggestion that was
21 made in TransCanada Power Marketing's testimony, and
22 recognizing that the Least Cost Integrated Resource
23 Plan takes quite a while to get through and a final
24 order, if a prescriptive procurement plan is needed,

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1 then I think 2012 would be the earliest that you could
2 change what was in the 2007 approved plan.

3 Q. You're not arguing, though, are you, that the
4 Commission is lacking in the authority to require PSNH
5 to do an RFP, absent the least cost planning statute?

6 A. (Errichetti) My understanding is that PSNH is supposed
7 to use its generation to serve its energy service. I
8 do not believe that there is anything dictating or not
9 dictating how PSNH goes about supplying the other cost
10 components of a full requirement power supply. That
11 there's nothing in the law about how you're supposed to
12 either manage ISO expenses or how do we purchase
13 operating reserves or any of those dozen or so
14 wholesale market full requirement cost components.

15 Q. There is something in the law, though, isn't there, in
16 fact, in the law that was cited by this Commission in
17 the order of notice, 369-B:3, that says it would be
18 done "in a manner approved by the Commission", which
19 suggests to me that the Commission has the authority to
20 decide -- you know, I understand your point about
21 generation being used, but, obviously, it takes more
22 than the output from generation to serve customers
23 under the ES, the Default Service, is that correct?

24 A. (Errichetti) Am I only answering the last part?

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- 1 Q. No. I kind of put two questions in one. If you want
2 to put two answers into one, that would be fine, but --
- 3 A. (Errichetti) I think I'm only going to be able to
4 answer the latter.
- 5 Q. Okay.
- 6 A. (Errichetti) That one's a "yes".
- 7 Q. Okay. But you're not familiar with the statutory
8 provision I cited?
- 9 A. (Errichetti) No, I -- I mean, generally, that sounded
10 very much right and what we've been doing since C-Day,
11 I mean, beyond that first year, I think, where there
12 was a fixed price.
- 13 Q. I'd just like to return briefly to the issue, the
14 "2 percent" issue, I guess I'll call it. And, I'm
15 looking at the response to Q-TC-021, the first set.
16 And, this is where we had asked --
- 17 A. (Baumann) Mr. Patch, could you just give us a second to
18 get there?
- 19 Q. Okay.
- 20 A. (Baumann) Thank you.
- 21 A. (Errichetti) 21 or supplement to 21?
- 22 Q. Well, I think it's pretty much -- well, that's a good
23 question. Okay. It's the supplement. And, this is
24 the question with regard to RAB-2, "Please provide the

[WITNESS PANEL: Baumann|Errichetti]

1 dates for the purchase of the power that is included in
2 the columns labeled "Known Purchases" and "Off-peak
3 Purchases". And, the response, tell me if I'm reading
4 it correctly, "the known purchases included in the
5 preliminary ES rate setting -- ES rate setting filing
6 were made in January '02, October '07, August '08,
7 September '08", and it says "January '09", but I
8 believe at the technical session you corrected that to
9 "January '08". Is that correct?

10 A. (Errichetti) Yes. The last part's "yes".

11 Q. Okay. So, if you're saying it was only 2 percent, are
12 you saying that a significant portion was made in
13 January of '02, October of '07? I mean, I just --
14 we're still trying to understand where the other
15 purchases came?

16 A. (Errichetti) I think I said a short while ago, this
17 "known purchase" is a catchall. If it's not own
18 generation and it's not a PPA and it's not Vermont
19 Yankee, and it's not a spot purchase, i.e. an LMP
20 hourly purchase, it's in that row. And, the purchases
21 that are in that row span that period.

22 CMSR. BELOW: Just to clarify something
23 you said, "if it's not a PPA", but some of the purchases
24 in that line item might be PPAs, but not from a QF under

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1 PURPA rates?

2 WITNESS ERRICHETTI: The purchase --
3 there's two long-term purchases in there, multi,
4 multiyear. Bio-Energy replacement is in that row in that
5 filing and Lempster.

6 CMSR. BELOW: And, those might be
7 purchase power agreements?

8 WITNESS ERRICHETTI: Well, they are. I
9 mean, they're long-term purchase power agreements.

10 CMSR. BELOW: Okay.

11 WITNESS ERRICHETTI: Yes, you could even
12 characterize the Bio-Energy replacement purchase as sort
13 of a PPA. There are two unit contingent purchases that
14 were entered into that reached through 2010, and then
15 there were the three strips that we've spent a good deal
16 of time speaking to.

17 MR. PATCH: Mr. Chairman, could I have
18 just one minute? I think I'm just about done. Thank you.

19 (Mr. Patch conferring with Mr. Hachey.)

20 MR. PATCH: No further questions. Thank
21 you very much.

22 CHAIRMAN GETZ: Okay. Thank you. Let's
23 try to take stock of where we are. Ms. Hatfield, how much
24 cross do you have?

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1 MS. HATFIELD: I have several follow-ups
2 from Mr. Patch and Mr. Rodier's testimony -- I mean,
3 cross, sorry. And, then, I have a few specific questions
4 about the filing. So, I would hope a half an hour.

5 CHAIRMAN GETZ: Okay. Ms. Amidon?

6 MS. AMIDON: We just have some questions
7 regarding the technical statement in the December 7th
8 update. And, I'm thinking maybe 10, 12 minutes.

9 CHAIRMAN GETZ: And, then, redirect, I
10 guess, Mr. Eaton, whether -- I'm not sure how we're going
11 to characterize this, is this redirect or rebuttal or an
12 opportunity for rebuttal later, but are you contemplating
13 redirect?

14 MR. EATON: I have about a half an hour
15 at the most.

16 CHAIRMAN GETZ: And, in terms of cross
17 for Mr. Hachey or Mr. Mullen, do you know what you're
18 looking at?

19 MR. EATON: No cross for Mr. Mullen, and
20 probably a half an hour to an hour for Mr. Hachey.

21 CHAIRMAN GETZ: Okay. All right. Well,
22 I think it's a good time for a recess at this point. So,
23 let's take about 15 minutes.

24 (Whereupon a recess was taken at 3:11

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1 p.m. and the hearing reconvened at 3:37

2 p.m.)

3 CHAIRMAN GETZ: Okay. We're back on the
4 record in DE 09-180. And, our plan is to go until 5:00
5 today, and then to resume tomorrow at 1:00 in the
6 afternoon. Okay. And, we are up to Ms. Hatfield.

7 MS. HATFIELD: Thank you, Mr. Chairman.
8 Good afternoon, gentlemen.

9 WITNESS BAUMANN: Good afternoon.

10 WITNESS ERRICHETTI: Hello.

11 BY MS. HATFIELD:

12 Q. I wanted to follow up on what I think Mr. Patch just
13 referred to as the "2 percent" issue. And, I was
14 wondering, I would like to have you look at a couple of
15 different things. If you could refer to that data
16 response that he was referring to, which is TransCanada
17 Set 1, Response 21. And, it's the supplemental
18 response.

19 A. (Errichetti) Yes.

20 Q. And, if you could also refer to, this is a confidential
21 response, and I'm not intending to ask any confidential
22 or disclose any confidential information, this is the
23 response to Staff Set 1, Question 13.

24 A. (Errichetti) Got it.

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[WITNESS PANEL: Baumann|Errichetti]

- 1 Q. And, if you could look at Exhibit 3, which is the
2 updated filing of December 7th.
- 3 A. (Errichetti) That just got hard. Okay.
- 4 Q. Okay. So, if we start out --
- 5 A. (Errichetti) Where in Exhibit 3 do you want me?
- 6 Q. Okay. If we start out in Exhibit 3 at Attachment
7 RAB-2, Page 3.
- 8 A. (Errichetti) Okay.
- 9 Q. And, we look at Line 24, which is "Known Purchases",
10 and on the far right the "Total", and we've heard this
11 number before, earlier today, that number is "1,043"
12 gigawatt-hours, is that correct?
- 13 A. (Errichetti) Yes.
- 14 Q. Okay. Now, in your response to TransCanada-01, 021,
15 that asked you to "provide the dates for the purchases
16 of the power that is included" in RAB-2 under "Known"
17 and "Off-peak". So, would it be correct that those
18 dates that you provide that you discussed earlier, the
19 January '02 through the September '08, that those
20 purchases, those total amounts would be reflected in
21 that 1,043 gigawatt hours?
- 22 A. (Errichetti) That was the intent, yes.
- 23 Q. Okay. And, then, if we look at the confidential
24 response to Staff 1-13, if we look at the question

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[WITNESS PANEL: Baumann|Errichetti]

- 1 first, this question -- in this question Staff says
2 "Please provide a list of the contracts, including the
3 dates that they were executed, the duration,
4 contracting party, quantity purchased, and purchase
5 prices." And, it's referring to RAB-2 --
- 6 A. (Errichetti) Thank you. Go on.
- 7 Q. Okay. Let me just explain, I'm reading it because the
8 Commission actually, I don't believe, has a copy of
9 this document, so I do have to give a little more
10 background. So, that's what it was seeking. It was
11 seeking details on what is shown in Line 24 and 25 of
12 RAB-2, Page 3, which is the "Known Purchases". If I
13 look at the confidential response that you've provided,
14 with the volumes that you provided or the amounts of
15 energy and the costs, should those match up with the
16 total in that column on 24 and 25?
- 17 A. (Errichetti) Should the total which? Megawatt-hours?
18 Gigawatt-hours? Dollars? I think you just pointed out
19 something that I miscalculated last night, which is the
20 "2 percent" should be "6 percent" and the "5 percent"
21 should be "15".
- 22 Q. So, I think what would be useful is to get that on
23 paper. So, perhaps we could get -- I could do a record
24 request for a breakdown of the -- just sort of, I

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1 guess, a revised response to Staff 1-13, understanding
2 that some of that information will need to be redacted.

3 A. (Errichetti) What exactly are you asking for?

4 Q. Well, what I was thinking is that the "Total" column on
5 Line 24 of RAB-2, Page 3, should match up with the
6 totals for both energy and expense in your response to
7 Staff 1-13, but I don't think it does.

8 A. (Errichetti) Well, the gigawatt-hours do; the expense
9 doesn't, because Staff 13 didn't calculate a total
10 expense. And, that the gigawatt-hours are, I believe,
11 within two megawatt-hours.

12 Q. So, the correction that you just made about the
13 "2 percent" and the "5 percent", can you talk a little
14 bit more about that?

15 A. (Errichetti) You see the "206"?

16 Q. I would caution you, though, that --

17 A. (Errichetti) I'm not being specific, I'm just saying
18 "do you see that number?"

19 Q. Yes.

20 A. (Errichetti) Well, that's where I made my mistake.
21 And, without getting into specifics, I counted one, I
22 should have counted all three.

23 CHAIRMAN GETZ: Would it help to have
24 Ms. Hatfield and Mr. Errichetti or whoever from the OCA

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1 and the Company to talk off-line to -- about a substitute
2 exhibit and/or updated response, I guess whichever is
3 appropriate, and we'll reserve Exhibit Number 19?

4 MS. HATFIELD: Absolutely. Thank you.
5 (Exhibit 19 reserved)

6 CHAIRMAN GETZ: Thank you. Mr. Patch.

7 MR. PATCH: Mr. Chairman, this brings up
8 I guess more than I anticipated. The motion that PSNH
9 filed for confidential treatment of the response and our
10 objection to that, which the Commission has not yet ruled
11 upon, understanding that we'll be back for another day, if
12 there is a way for the Commission to address that.
13 Obviously, if you're going to rule against us, then it
14 doesn't help us. But I just think it would be helpful, if
15 possible, for the Commission to address that issue,
16 because this is, obviously, critical information. We
17 couldn't ask very intelligent questions about this because
18 we didn't have the information. Anyway, I'm not asking
19 for a result right now, I'm just sort of -- I just wanted
20 to --

21 CHAIRMAN GETZ: But are you asking
22 because of the statement by Mr. Errichetti that the "2" is
23 now "6" and the "5" is now "15"?

24 MR. PATCH: Yes.

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1 CHAIRMAN GETZ: I mean, weren't your
2 questions -- how would they change, given a change in the
3 number? It seems like you were asking your questions in
4 kind of a qualitative sense with whatever the numbers
5 were. If we don't grant your motion, what changes, I
6 guess is my question?

7 MR. PATCH: I mean, obviously, the
8 significance of it rises. And, the significance of a
9 number of issues rises if the number rises. And, I guess,
10 qualitatively, if you don't grant our motion, maybe it
11 doesn't. But I just think it sort of points up the fact
12 that, I mean, I thought we had very good arguments as to
13 why at least some portion of that response ought to be
14 made public. And, why, you know, not just us, but
15 ratepayers ought to be entitled to know that information.
16 And, I just think the absence of a ruling on it sort of
17 hinders us from being able to fully pursue some of the
18 questions that we have.

19 CHAIRMAN GETZ: Well, in absence of a
20 ruling granting. Okay. All right. We'll take that under
21 consideration. And, let's proceed with Ms. Hatfield.

22 MS. HATFIELD: Thank you.

23 BY MS. HATFIELD:

24 Q. Mr. Errichetti, I believe that you've testified that

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1 "the Company does not forecast migration", is that
2 correct?

3 A. (Errichetti) Yes.

4 Q. And, I believe in Mr. -- I think it was Mr. Baumann's
5 original filing in the case, which is Exhibit 1, on
6 Page 5, Line 16, on Page 5, Line 16, of his testimony
7 in Exhibit 1, Mr. Baumann referred to an "assumed
8 migration level of 18 percent", and he contrasts that
9 with the actual of 23 percent. Do you see that?

10 A. (Baumann) Yes.

11 Q. And, just help me understand, because you don't have a
12 forecast, what you do is you take the actual at a point
13 in time, and then you make an assumption just carrying
14 that number forward, is that correct?

15 A. (Baumann) Right. So, assumed was an actual value. We
16 didn't assume a forecasted value, that was actual.

17 Q. But you assumed the actual will continue at that same
18 rate?

19 A. (Baumann) Yes.

20 Q. And, is it true that that's changed twice now since
21 August 1st, 2009? You show here, on Page 5 of
22 Exhibit 1, that it was 23. But I believe in one of
23 your updates you said that it's actually gone higher?

24 A. (Baumann) Yes. Our update assumed a level of about

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1 27 percent, an actual level.

2 Q. And, when would you update that next? Would it be the
3 mid-year update in 2010?

4 A. (Baumann) Yes.

5 Q. And, what would happen if migration fell significantly,
6 so that it was 15 percent at that point? Would that
7 have a significant impact on the mid-year correction
8 you might make to the 2010 rate?

9 A. (Errichetti) It depends a lot on why it fell to
10 15 percent. I mean, if it fell to 15 percent because
11 the market moved up, that might have an effect. As you
12 can see, in RAB-2, Page 3, we have a significant amount
13 of surplus energy sales. Those are, you know, maybe
14 predominantly in the off-peak, but that would absorb
15 some of that migration coming back. So, yes, the rate
16 would change. Would it be significant? I don't think
17 we can say.

18 Q. And, actually, I wanted to ask you a question about
19 that. I think you are referring back to RAB-2, Page 3,
20 and "Surplus Energy Sales". And, this is in the
21 update. This is Exhibit 3. And, "Surplus Energy
22 Sales" shows up on Lines 30 and 31, correct?

23 A. (Errichetti) Yes.

24 Q. And, these are shown as a credit here, is that correct?

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- 1 A. (Errichetti) Yes.
- 2 Q. And, do those -- those are sales that take place when
3 PSNH has purchased more than it ends up needing to
4 serve ES customers?
- 5 A. (Errichetti) It's when all committed resources exceed
6 the load line. It doesn't necessarily -- it's not
7 necessarily purchases.
- 8 Q. What else would it be?
- 9 A. (Errichetti) It could be the IPPs. It could be coal.
10 It could be hydro. It's the sum of the committed
11 resources exceed the load line.
- 12 Q. But it wouldn't be coal or hydro, because you have an
13 obligation to use those to serve customers. So, --
- 14 A. (Errichetti) I have served customers, and I have more
15 to go.
- 16 Q. So, it's possible that you might have to sell all of
17 your purchases, plus sell some of your own generation?
- 18 A. (Errichetti) It's hour-specific. So, there are
19 probably hours where our committed purchases, plus
20 generation, exceed the load. There are probably other
21 hours where we've got -- the amount of surplus exceeds
22 what little purchase we may have already committed, so
23 we are into our own generation. It's hour-specific.
- 24 Q. And, for this total estimate for 2010, do these sales

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1 benefit customers? Are they a net positive? Or, are
2 they -- are you projecting that they will be sold at a
3 loss to customers?

4 A. (Errichetti) I think there are hours where it's a
5 benefit to customers and hours where, on balance, it's
6 a detriment to customers.

7 Q. And, would we see what the final result was next year,
8 when you do the reconciliation for the calendar year
9 that we're currently in?

10 A. (Errichetti) Yes.

11 Q. So, for --

12 A. (Errichetti) In aggregate, those numbers I believe are
13 tallied up and they're in those exhibits.

14 Q. So, for 2010, we'd see them in 2011?

15 A. (Errichetti) Yes.

16 Q. Mr. Baumann, I wanted to ask you a few questions about
17 the two methods that you described in your testimony,
18 that's in Exhibit 2 that you filed on November 23rd,
19 related to addressing issues related to migration. I
20 believe that earlier today you used the term "undue
21 burden" when you were describing the impact that those
22 customers who are captive experienced. Do you recall
23 that?

24 A. (Baumann) Not specifically, but I may have.

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[WITNESS PANEL: Baumann|Errichetti]

- 1 Q. Does that fairly characterize how you see the effect on
2 those customers?
- 3 A. (Baumann) Yes. It's certainly an added burden to
4 residential and small C&I customers.
- 5 Q. And, you've also described it as an "unintended
6 consequence of restructuring", correct?
- 7 A. (Baumann) Yes.
- 8 Q. Is it fair to say that it's an unintended consequence
9 of how restructuring has been implemented for PSNH, and
10 not for the other utilities?
- 11 A. (Baumann) Yes, I think that's accurate, because PSNH is
12 different than other utilities with their generation.
- 13 Q. So, if that's true, because of how things are managed
14 through only market purchases for Grid and Unitil
15 customers, they don't have this migration issue that
16 PSNH is seeing right now, in terms of the impact on the
17 captive customers?
- 18 A. (Baumann) That's correct.
- 19 Q. On Page 7 of your testimony, in Exhibit 2, Lines 11
20 through 13, you talk about the fact that trying to come
21 up with a solution for what you refer to as the "Method
22 1" issue would be somewhat complicated, but that you
23 believe that "additional work would be warranted".
24 When do you think that that additional work should be

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1 undertaken?

2 A. (Baumann) Well, I think we should begin immediately, in
3 effect. You know, I think in my testimony I said that
4 we would -- could possibly try to work through a
5 solution for a July 1 rate change, if there was a
6 solution that we could propose to the Commission. We
7 -- I make that kind of generic. But, if it took us
8 longer than that, then maybe we'd have to wait till the
9 annual change in January of 2011. Certainly, I think
10 the issue that's been identified, I think it's a valid
11 issue that we need to address. I'm not sure what the
12 right solution is or a combination of what the right
13 solutions may be. But the sooner we can get to it, the
14 better off we are.

15 Q. And, once that solution is developed, would you
16 envision that it would be reconcilable or retroactive?
17 Since we know the problem exists now, would you see it
18 -- would you see us being able to credit customers or
19 figure out some way to compensate those captive
20 customers for those costs that we see today?

21 A. (Baumann) No, I think it would -- I think it would be a
22 forward-looking change to the rate structure. At least
23 that's what we would propose.

24 Q. So, we would -- sounds like you would perhaps suggest

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1 that we tell those customers who are bearing that
2 burden now that it's, in your words, it's an
3 "unintended consequence of restructuring", but it won't
4 be fixed until some point in the future?

5 A. (Baumann) Yes.

6 Q. You also talk about "Method 2 costs", which you
7 describe on Page 5 of your testimony, as "specific cost
8 items from the ES rate that directly benefit all
9 customers", but are currently recovered through ES
10 rates. Do you recall that?

11 A. (Baumann) Yes.

12 Q. And, on Page 8 of that testimony, you refer to three
13 possible Method 2 costs that could be moved out of ES.
14 Do you recall that?

15 A. (Baumann) Yes.

16 Q. And, the three appear beginning on Line 8. And, the
17 first is, you've already mentioned, which is the "VAR
18 support" that you are proposing moving to TCAM,
19 correct?

20 A. (Baumann) That's correct.

21 Q. And, that would remove \$1.4 million out of the 2010
22 Energy Service rate?

23 A. (Baumann) Yes.

24 Q. And, then, the second is the Bio-Energy costs that

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1 we've talked about, which are roughly 12 and a half
2 million dollars?

3 A. (Baumann) Correct.

4 Q. And, then, the third is "Company Use that's not related
5 to generation", and you suggest that it could be moved
6 to distribution rates. And, the figure you have here
7 is that it might be worth "1.4 million", is that
8 correct?

9 A. (Baumann) That's correct.

10 Q. And, the Company I don't believe included removing that
11 amount from Energy Service in your update. Why did you
12 not include that?

13 A. (Baumann) Well, we looked at that amount as something
14 slightly different than the other two. The
15 above-market costs we think were very consistent with
16 all the IPP treatment, and that was the Bio-Energy.
17 The VAR support we felt was a number that could be
18 moved into an existing recovery mechanism, TCAM,
19 because we believe it's a reliability cost. It's part
20 of the FERC tariff, transmission tariff, and it belongs
21 there we believe. There's an existing deferral
22 mechanism already in existence for that, that cost.
23 So, we could move it on January 1st and just defer the
24 underrecovery for six months into TCAM.

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1 With respect to the Company Use, that
2 will be a little different. We would have had to have
3 asked the Commission to act on what I call a "rate
4 case" issue prior to the rate case being acted on.
5 That's not to say that the Commission couldn't do that,
6 but it would have -- if we had added it in, we would
7 have had to have asked the Commission to set up a
8 regulatory asset for that amount of money that would be
9 taken out of ES for six months, and it wouldn't have
10 been a regulatory asset or a deferral mechanism that
11 was right now right, you know, on the books, if you
12 will, and in process. So, we felt, because of the size
13 of amount, which was only 1.4 million, that we could
14 wait six months for that issue.

15 Certainly, if someone pushed and said
16 "let's do it right away", I would say "fine". But then
17 you would have to be very specific to the Commission
18 that their order would have to allow a specific
19 regulatory asset, because we, the Company, cannot book
20 regulatory assets unless we have a specific Commission
21 order to do so. I feel comfortable that we have the
22 TCAM existing orders, but not for the distribution
23 piece.

24 Q. And, so, the distribution piece, you're referring to

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- 1 that because, in that rate case, because you would be
2 moving Company Use over to the distribution rates?
- 3 A. (Baumann) That would be our proposal, yes.
- 4 Q. In your cover letter to the December 7th update, which
5 is Exhibit 3, the last sentence on the page states that
6 "the Energy Service Rate would be 9.2 cents per
7 kilowatt-hour absent the changes in cost recovery
8 recommended in Method 2." And, so, do I understand
9 that, if the Commission didn't make these changes, then
10 your rate for 2010 would be 9.21 cents?
- 11 A. (Baumann) That's correct.
- 12 Q. And, what accounts for the reduction from your original
13 estimate of 9.31, down to the 9.21?
- 14 A. (Baumann) Well, there were numerous subtle pricing
15 changes associated with coal, RPS, RGGI, and Mr.
16 Errichetti could get into it, if he wants to. I think
17 there were more Newington benefits. And, there were
18 also some ISO -- or, Hydro-Quebec credits that were
19 included in the update. And, net/net -- and I believe
20 we updated for sales as well. So, it went from the
21 original September number of 9.31, to the 9.21.
- 22 Q. Are you familiar with the testimony that Mr. Mullen has
23 filed on behalf of Staff in this docket?
- 24 A. (Baumann) Yes.

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1 Q. And, are you familiar with his recommendation that the
2 Company conduct a study of the Newington plant prior to
3 the Energy Service case next year?

4 A. (Baumann) Yes.

5 Q. Does PSNH have a position on that recommendation of
6 Staff?

7 A. (Baumann) A position? We're not opposing it. Kind of
8 sounds like an OCA position, we're not in opposition.
9 But, yes, I don't think -- there was no one at the
10 Company jumping up and down screaming badly about it.

11 Q. I'm sure you recall in 09-091 that the OCA raised an
12 issue about coal inventory?

13 A. (Baumann) Yes.

14 Q. And, what's the assumption for the 2010 rate on how
15 many days of coal inventory you'll be carrying or
16 maintaining at each of your coal-fired stations?

17 A. (Baumann) Well, for the rate, we have -- we've used
18 actual inventory and -- well, actual inventory through
19 a period of time. I think it's -- we have an October
20 actual, and then we have rolled that inventory forward.
21 Generally speaking, we've -- I think we've been in the
22 45 day was an old level at one point that had been
23 bantered about. But, as we've heard in other
24 testimony, that level is a lot higher because of a lot

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1 of different circumstances. It's our intention to work
2 down the inventory level. But we have used -- we have
3 used actual data in all the filing, and have just
4 rolled that forward into 2010.

5 Q. Also, in DE 09-091, the Company discovered that an
6 insurance claim for an incident related to Newington
7 Station had been received, but was not reflected in
8 your first estimate of the Energy Service rate. Do you
9 recall that?

10 A. (Baumann) Yes.

11 Q. And, the amount I believe was somewhere around
12 \$770,000, is that correct?

13 A. (Baumann) Yes, that's correct.

14 Q. And, has that amount been or the appropriate portion of
15 that been reflected in your update for the 2010 rate?

16 A. (Baumann) I checked this morning and the answer to that
17 is "no." We just overlooked it. However, it's
18 insurance towards a capital project. So, the revenue
19 requirement in this case would be about \$85,000 in
20 revenue requirements. And, if you were to reduce that
21 from the dollars proposed, it wouldn't change the rate,
22 because of the rounding. The rate would stay as
23 proposed.

24 Q. And, is that -- that is because the amount is so small,

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1 --

2 A. (Baumann) Yes.

3 Q. -- it wouldn't impact the overall rate?

4 A. (Baumann) Yes. And, I apologize for us overlooking it.

5 It's just been a busy couple weeks and we missed it.

6 MS. HATFIELD: One moment please.

7 (Ms. Hatfield conferring with Mr.

8 Traum.)

9 BY MS. HATFIELD:

10 Q. Related to the question I asked you earlier about the
11 Newington Station, in your technical statement that was
12 attached to your update, which is Exhibit 3, on the
13 second page of your tech statement you are describing
14 Lines 14 and 15 on RAB-2, Page 3. Do you see that?

15 A. (Errichetti) Yes.

16 Q. Can you discuss why you've made the change in operation
17 that reflects dispatching Newington more than you had
18 previously planned?

19 A. (Errichetti) In performing the update, we had
20 conversations with plant management and operations, and
21 talked over with them how they intend to look at
22 Newington in 2010. We refined, revised/refined the
23 modeling that we did in the initial filing to reflect
24 using existing inventory and starting up on natural

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1 gas. And, those changes in the dispatch met -- the
2 dispatch methodology resulted in increased hours of
3 operation.

4 MS. HATFIELD: Thank you. No further
5 questions.

6 CHAIRMAN GETZ: Thank you. Ms. Amidon.

7 MS. AMIDON: Thank you. I'm going to
8 ask Mr. Mullen to conduct the cross on the technical
9 statement in the December 7th filing.

10 CHAIRMAN GETZ: Thank you.

11 MR. MULLEN: Good afternoon.

12 WITNESS BAUMANN: Good afternoon.

13 WITNESS ERRICHETTI: Hello.

14 BY MR. MULLEN:

15 Q. I'm looking at Exhibit 3, which is the update. And, if
16 we go right back to the technical statement, Page 2 of
17 that technical statement, at the top, there's a
18 discussion about "Lines 4 and 5". Could you explain
19 what's happening with coal generation and coal-related
20 costs?

21 A. (Errichetti) The increase in generation reflects
22 reduced maintenance. They revised the maintenance
23 schedule between the September filing and the December
24 filing, there was fewer days, and that resulted in

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1 increased operation. My understanding on the coal
2 price is we used up an expensive cargo in 2009. And,
3 so, that price, the cost of that cargo was removed from
4 2010. Transportation charges are forecast to be lower
5 in 2010. And, I believe the NOx and SOx adder prices
6 were also lowered somewhat. So, the combination of
7 those individual assumption changes resulted in a lower
8 overall coal fuel, you know, coal expense, even while
9 there was increased generation.

10 Q. Now, am I correct, is the "\$5.8 million" that's
11 mentioned there, is that related to a decreased fuel
12 price?

13 A. (Errichetti) Well, it's commodity, as attributed to the
14 cargo, and it's transportation, which is not really,
15 it's fuel, and then the emission adders, the NOx and
16 SOx adders. So, you know, hard to say those are fuel,
17 exactly fuel.

18 Q. So, even though you're increasing the coal generation
19 and using more fuel, overall, the fuel costs are still
20 down?

21 A. (Errichetti) Yes.

22 Q. Regarding "Lines 14 and 15", a little further down the
23 page, for Newington Station, the last sentence, am I
24 correct to say that the changes in expense and revenue

[WITNESS PANEL: Baumann|Errichetti]

1 relate to energy expense and energy revenue?

2 A. (Errichetti) Yes. If I'm understanding you correctly,
3 I think the answer is "yes."

4 Q. Okay. Do you know what this increased generation, how
5 it changes the forecasted capacity factor for
6 Newington?

7 A. (Errichetti) I wrote that down somewhere, now I got to
8 remember where. I would have to calculate that. The
9 capacity factor was less than 1 percent in the original
10 run. The capacity factor in the update is 3 percent.
11 And, the capacity factor in the original filing was
12 less than one.

13 Q. Moving down to the bottom of this page, to "Line 33",
14 could you clarify what's happening with the congestion
15 and loss adjustment?

16 A. (Errichetti) When going from the September analysis to
17 the December analysis, the amount of spot purchases in
18 the ISO-New England wholesale energy market go down.
19 When we move -- we model those purchases at the Mass.
20 hub. So -- and there's a negative congestion and a
21 negative loss when you move from the hub to the New
22 Hampshire zone. So, when you cancel those purchases,
23 you actually undo a negative component in that
24 congestion and loss line, which raises the congestion

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1 and loss expense or at least it appears that you're
2 raising it, because you're reducing a credit. And,
3 vice versa, when we went from the September filing to
4 the December filing, the surplus sales went up, and
5 when we move surplus in New Hampshire to the hub, you
6 actually incur a congestion and loss expense, because
7 the hub is more expensive than New Hampshire. And,
8 it's a combination of those. And, there are other
9 hours where the congestion and loss numbers are going
10 down, but they're dwarfed by this trend.

11 Q. Now, if you turn the page, to the fourth item down, to
12 "Line 43 and 44", it talks about a decrease in capacity
13 costs of "7.7 million". Could you just briefly
14 describe the various components that comprise that
15 \$7.7 million decrease?

16 A. (Errichetti) Yes. There's three changes that we
17 captured in the update. There were a -- there was a
18 small number of megawatts of IPPs that we were taking
19 credit for from June to December that we should not
20 have been claiming, and that was 0.53 megawatts. It
21 was very small. The second correction is, we were
22 claiming credit for capacity under the CORE Program,
23 that's the Conservation and Load Management Program.
24 Those capacity revenues, those credits are actually

[WITNESS PANEL: Baumann|Errichetti]

1 plowed back into the CORE Program. They're not really
2 available to the ES. So, we had to remove those
3 megawatts and those credits. And, that actually raised
4 costs. And, the third correction was, we did not
5 capture PSNH's Hydro-Quebec interconnection capacity
6 credits. That's 128 megawatts per month, June through
7 November. And, that was worth a lot of money. It
8 significantly lowered the ES capacity expense.

9 Q. Regarding the Hydro-Quebec credits, why only the months
10 June through November?

11 A. (Errichetti) In setting the installed capacity
12 requirement, which is the total capacity requirement in
13 New England, the Hydro-Quebec line was given a credit.
14 It's -- Really, it's tie benefits. They were given
15 credit for the months of March through November. And,
16 we had it modeled correctly March through May, but we
17 did not model it correctly, June through November.

18 Q. And, what happens --

19 A. (Errichetti) People are saying I did that wrong? No,
20 it's through November. Oh, December, January, and
21 February are Hydro-Quebec's peak load months. And, for
22 the 2010 calendar year, it's really two power years, we
23 weren't given any value for Hydro-Quebec in those three
24 winter months.

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1 MR. MULLEN: Thank you. I have nothing
2 further.

3 CMSR. BELOW: Good afternoon.

4 BY CMSR. BELOW:

5 Q. Mr. Baumann, on Exhibit 14, the OCA-011 --

6 A. (Baumann) Excuse me, Commissioner, which exhibit was
7 that again?

8 Q. It's been marked as "Exhibit 4, the cover of it is a --
9 Exhibit 14, yes, and the cover of it is a data request
10 from TransCanada, TC-012. But attached to it, the
11 third page is a data request from OCA-011.

12 A. (Errichetti) Oh. Okay. Am I the witness on TC-012?

13 Q. Well, the witness on this data request is Richard
14 Labrecque and Robert Baumann.

15 A. (Errichetti) Okay. So, you're referring to the 09-091?

16 Q. Yes.

17 A. (Errichetti) Okay. Here we go. I've got it.

18 Q. Right. In another docket, right. But, in that,
19 there's a reference to "PSNH's Supplemental Energy
20 Sources Department O&M charges [being] recovered
21 through [the] distribution rate." Is that still the
22 case? And, if so, why is it charged to the
23 distribution rate, rather than the Energy Service rate?

24 A. (Errichetti) Could you ask the question again, now that

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1 we found the response?

2 Q. Well, I'm actually slightly confused by the response,
3 because it seems to refer to two things, I'm not sure
4 whether they're the same thing. Maybe clarify that if
5 what's referred to as "PSNH's Supplemental Energy
6 Sources Department O&M charges" says are "recovered
7 through distribution rates". And, then, it says
8 "Northeast Utilities Wholesale Power Contracts (NU WPC)
9 Department charges O&M associated with purchasing power
10 to energy service. These costs are included", and
11 that's referring to something that is charged to energy
12 service. So, I take it those are two separate charges.

13 A. (Errichetti) Okay. What happened is the question
14 originally referred to "Supplemental Energy Sources
15 Department".

16 Q. Yes.

17 A. (Errichetti) And, at PSNH, that is the group that
18 administers the old PURPA contracts, and the third --
19 the IPPs who sell under short-term rates.

20 Q. Okay.

21 A. (Errichetti) And, that department charges it time to
22 the distribution company. But then the question went
23 on to ask "are there any other departments that charge
24 to Energy Service? And, the answer is "Yes, there's

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1 another department named Wholesale Power Contracts who
2 does."

3 Q. And, that's what you're associated with, in terms of
4 procuring the -- filling the gap, among other things,
5 and that's charged to Energy Service rates?

6 A. (Errichetti) Yes.

7 Q. Okay. Thank you. That's a helpful clarification.
8 Going back to Exhibit 1, the original prefiled
9 testimony, at Page 6 of 8, Line 7, I think, Mr.
10 Baumann, you stated that "During the current
11 unprecedented market price decline", and then the
12 sentence goes on, I was just wondering if you could
13 explain why you call it an "unprecedented market price
14 decline"?

15 A. (Baumann) Well, over a relatively short period of time
16 we've seen oil and gas at the highest rates they were
17 ever at, and which is the price decline that we were
18 referring to here, and generally was the decline we've
19 seen in both of those commodity prices, from their
20 all-time high to an extremely low level. I think -- I
21 know there's a gas chart that we were referring to
22 before. The gas prices are, I think, at a level that
23 we were at about ten years ago. And, you know, so,
24 they have come from a very low level, up to an all-time

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1 high, and back down to this very low level. So, we
2 were really referring to just the absolute value of the
3 decline, it's probably the largest decline we've ever
4 seen in a short period of time.

5 Q. But, relatively speaking, we've been through other
6 cycles where prices, whether they're fossil fuels or
7 electricity on the margin, have gone to high levels,
8 sometimes record high levels, and then decline to low
9 levels again.

10 A. (Baumann) Sure. Sure.

11 Q. And, in fact, didn't we have a period in the '90s, when
12 we saw that the cost of new electric generation on the
13 margin, from relatively low priced natural gas, using
14 relatively new commercialized, highly efficient
15 combined cycle, was actually lower than typical average
16 embedded cost for generation, such that that, you know,
17 was arguably a factor in many states' consideration of
18 restructuring, where large industrial customers were
19 asking for the opportunity to choose their generation
20 suppliers, because they were seeing opportunities to
21 buy new generation sort of on the margin at a lower
22 cost than their current average cost of generation. Is
23 that a fair statement?

24 A. (Baumann) Yes. Yes, I believe it is.

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- 1 Q. Okay.
- 2 A. (Baumann) You know, again, when I was referring to
3 "decline" here, we were thinking in terms of \$140 oil
4 versus \$39 oil. That's \$100 a barrel decline as an
5 example. I don't think we've ever seen a \$100 barrel
6 decline, only because we've never seen oil at 140.
- 7 Q. But, you're focusing, when you raised this
8 "unprecedented market price decline", was not really
9 oil, it was electricity cost, correct?
- 10 A. (Errichetti) But, even electricity prices, in the
11 forward market, fell from 100 to 30. We hadn't seen
12 \$100 -- well, north of 100. It was -- It really ran
13 up, and it has quite fallen down.
- 14 Q. Okay. Have you ever had the occasion to go back and
15 look at what the cost of some of your strips and blocks
16 were to fill the gap, compared to if you had simply
17 procured the same power for the same periods of time in
18 the day ahead and/or the same day real-time markets in
19 New England?
- 20 A. (Errichetti) Well, yes. We -- Well, looking backward,
21 I think, as a part of the prior year review, we do do
22 that. And, on a quarterly basis, for certain
23 accounting rules, we have to look at our energy
24 purchases and compare them to the market at the end of

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1 each quarter. So, we do -- we do know how they're
2 doing, you know. But, one of the things, you know, I
3 think I've got to mention is, over the years in this
4 proceeding, and I think it was mentioned perhaps
5 earlier today, there was an emphasis on managing
6 over/under recoveries. And, there was a strong --
7 there was a desire at one point in this process to lock
8 in our power supply so that we had price certainty, so
9 that customers could -- would know what their rate was
10 going to be. And, then, when the year was over, there
11 weren't going to be any surprises as to whether we had,
12 you know, we had set the rate too high or too low. So,
13 there was an effort over the years to buy what we
14 needed and create certainty.

15 I think what we're realizing over the
16 past 16, 18 months is maybe that needs to change.
17 Well, clearly, it needs to change.

18 Q. Could you provide some of these quarterly analyses
19 where you've compared actual market prices with what
20 your blocks and strips were? Could you provide those
21 as a record request?

22 A. (Errichetti) Do you want like, say, the last four
23 quarters' reports?

24 Q. That would be helpful.

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1 A. (Errichetti) All right. I would like to provide that
2 confidentially to, you know, OCA, Staff, and you.

3 CHAIRMAN GETZ: Okay. Let's reserve
4 Exhibit 20 for the record response.

5 (Exhibit 20 reserved)

6 BY CMSR. BELOW:

7 Q. Are you generally -- have you heard or are you aware of
8 some work ISO-New England did earlier this year, in
9 which they compared Default Service rates for, I
10 believe, National Grid in Massachusetts over several
11 historic periods for different customer classes with
12 real-time prices?

13 A. (Errichetti) No, I haven't seen that particular study?

14 A. (Baumann) No, I haven't either, sir.

15 Q. Okay.

16 A. (Errichetti) Can I -- You want to say something?

17 A. (Baumann) Well, I'm just curious. Was it a published
18 study?

19 Q. I don't know that it's published. I think it's
20 publicly available.

21 A. (Errichetti) We, I mean, just to generically answer the
22 question, we have looked at times to say, you know, we
23 don't profess to time the market. We don't claim that.
24 We tend to more say "dollar cost average". If we want

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1 price certainty, you buy what you need, spread it over
2 time, and manage it. We have looked at day-ahead
3 versus real-time. You know, should you buy 100
4 megawatt-hours an hour in a day ahead of the real-time.
5 And, there will be very long streaks where it looks
6 like it makes lot of sense to just wait for real-time.
7 It's always cheaper. Then, there will be a handful of
8 days where the real-time just goes, you know,
9 inexplicable. And, so, you end up saying, "boy, being
10 in a day ahead gives you more price certainty and stay
11 there." And, that's a little bit different than your
12 question, which is, "if you bought every year on
13 December 31st, how would that compare to just playing
14 out the day ahead or real-time market?" And, that I
15 have not looked at.

16 Q. I think, if you took a look at what ISO-New England
17 did, it addresses -- it looked specifically at that,
18 although it's not comparing to what you're doing, it
19 does compare to what a bundled Default Service rate is
20 compared to over long periods of time, over several
21 years, what just buying in the real-time looks at.
22 And, it's something that I think merits some
23 consideration in terms of this question and going
24 forward.

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1 And, would you say it's fair to say that
2 at this point, with hindsight, that the volatility of
3 customer migration may have as much or may have -- has
4 an increasing impact on this question of price
5 certainty, compared with, for instance, locking in
6 prices, relative to the past experience?

7 A. (Errichetti) Absolutely.

8 Q. Okay. I have a couple more questions, I just have to
9 remember them. Oh, the surplus situation you find
10 yourself in, how long have you been roughly in a
11 surplus, net surplus situation, where you have net
12 surplus sales?

13 A. (Errichetti) Well, I guess it depends on the month.
14 But it's been, as migration has gone up, we've become
15 surplus in various months. You know, the lower load
16 months were the first months where we started going
17 surplus. And, then, as more migration has happened and
18 as the sales forecast has been getting revised down,
19 more months are surplus. And, I think, at this point,
20 in the reference case, we're surplus in every month.

21 Q. And, how would you characterize where that is
22 occurring? Is that -- historically, that's mostly
23 occurred, I presume, during off-peak hours, when your
24 load simply drops below the level that sort of fixed

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1 generation is occurring. But is that -- are you
2 getting increasing numbers of hours where that's
3 occurring because you have, for instance, bought strips
4 or blocks of power, and, even though it's not at the
5 low off-peak hours, but you have more intermittent
6 hours where you have surplus?

7 A. (Errichetti) Yes. It's getting pervasive. And, you
8 know, we're kind of -- what power supply we have is
9 pretty much locked in. So, as we lose -- you know, one
10 thing I want to mention is the sales forecast on
11 modelings are weather-normalized forecasts. We're
12 forecasting, so there's no weather, there's not much
13 weather variation in the forecast. The other thing is
14 is that we model -- I guess what I'm trying to say is
15 it's a reference forecast and it's a reference price.
16 And, there's a lot that's going to happen during the
17 year that's going to change what this piece of paper
18 says is happening.

19 Q. I'm not sure where it was in the documents, but I think
20 you provided a customer migration update table that I
21 believe went through October, possibly November. And,
22 at the tail of that table, the most recent month it
23 shows over 500 residential customers, which appears to
24 be an all-time high in terms of residential customers

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1 migrating to competitive suppliers. Do you have any
2 update on that, a more recent month?

3 A. (Errichetti) I'm being told "no".

4 Q. Okay. And, what is the last -- do you happen to have
5 that last month that is reported?

6 MR. MULLEN: If I could help you out, I
7 believe it's attached to Mr. Hachey's testimony, which is
8 Exhibit Number 7.

9 CMSR. BELOW: Thank you, Mr. Mullen.

10 BY CMSR. BELOW:

11 Q. Actually, the last month there is September '09. So,
12 we've been through October and November. Are you sure
13 you don't have any data for October and November?

14 WITNESS ERRICHETTI: Do you want to --

15 MR. HALL: I'm sure we have it. I just
16 don't --

17 CHAIRMAN GETZ: Let's get it on the
18 record. Why don't -- Mr. Eaton, do you have an answer to
19 --

20 MR. EATON: We can get more recent
21 information.

22 CMSR. BELOW: Okay. Could we have a
23 record request to extend the migration history that's
24 shown in Exhibit 7, Page 2 of 2 of the Data Request

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1 OCA-01, Q-OCA-004, up to the most recently available data.

2 CHAIRMAN GETZ: Okay. And, we will
3 reserve Exhibit 21 for that response.

4 (Exhibit 21 reserved)

5 CMSR. BELOW: That's all.

6 CHAIRMAN GETZ: Ms. Ignatius.

7 CMSR. IGNATIUS: Thank you.

8 BY CMSR. IGNATIUS:

9 Q. Mr. Errichetti, if you can look at Exhibit 12, which is
10 the data response that compared the variance between
11 percentages of purchases in different time periods in
12 2007 versus purchases for 2010.

13 A. (Errichetti) Yes.

14 Q. And, there was quite a lot of attention given to that
15 today, so I want to be sure I understand. In purchases
16 for 2010, is it correct that, first of all, you're
17 looking at the gap between your own resources and other
18 obligated supply against the load that you anticipate?

19 A. (Errichetti) Yes.

20 Q. And, then, when you assess that gap, you go out and
21 make certain purchases. And, in this case, you made, I
22 won't ask you for an amount, but you made a certain
23 amount of -- you purchased a certain amount of power
24 under these bilateral agreements that you thought was

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1 only a portion of what you would need to fill the gap?

2 A. (Errichetti) At the time, yes.

3 Q. And, it turned out that that level of purchasing was
4 100 percent of what you ended up needing to fill the
5 gap?

6 A. (Errichetti) Yes. We don't believe we need to buy any
7 more.

8 Q. Okay. You also corrected the percentages we've been
9 talking about. And, I just want to be sure I
10 understand "2 percent" of what and "5 percent" of what
11 have now become "6" and "15 percent" of what.

12 A. (Errichetti) Yes.

13 Q. So, if you can just explain what the --

14 A. (Errichetti) Okay. Without naming names, prior to the
15 hearing, I went back and I was looking at the document
16 you've asked for that showed what our procurement
17 strategy was and what we were working off of. And, I
18 misinterpreted the purchases in that memo, and I
19 understated the volume that we were looking to buy by
20 three. So, when I came in this morning, I was
21 thinking, "all right, we bought X amount, and that was
22 5 percent of the gap or 2 percent of the total
23 requirement." And, so, I -- and, as I was being
24 crossed later on, I realized, looking at that

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- 1 confidential data request, I said "oh, look at that.
2 That's what I did wrong. There were three of them, not
3 one of them." And, that was the correction.
- 4 Q. So, the correct numbers are that you were making
5 purchases for what you thought was 15 percent of the
6 gap?
- 7 A. (Errichetti) Yes. We were buying -- we bought 15 --
8 that's what we targeted at that time, 15 percent of the
9 gap.
- 10 Q. And, then, the gap turned out to shrink because of a
11 drop in load --
- 12 A. (Errichetti) The recession and migration.
- 13 Q. One other question on that. You also defined for us
14 the known purchases as a "catchall" that included these
15 purchases we just talked about and some other
16 categories. And, you said that some of those purchases
17 went back to 2002?
- 18 A. (Errichetti) Yes.
- 19 Q. Why are you -- How are we dealing with purchases that
20 far back? What would be the purchasing strategy that
21 the Company had that might be dealing with a
22 2002 purchase for 2010?
- 23 A. (Errichetti) That particular purchase is the Bio-Energy
24 replacement purchase.

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- 1 Q. All right. And, in that category, you had Bio-Energy.
2 Is there anything else that's as old, an ongoing
3 obligation as that?
- 4 A. (Errichetti) Well, there's two other purchases that are
5 unit contingent. That means they actually were buying
6 it from the -- the output of a unit that were entered
7 into, I think they're three year terms, '08, '09, '10.
8 Before long I'm going to provide that entire response.
9 Well, yes, and then I mentioned earlier Lempster was
10 also in that line.
- 11 Q. Right.
- 12 A. (Errichetti) That's newer, but it's got a long life.
- 13 Q. How long does that extend?
- 14 A. (Errichetti) Subject to check, like 15 years, 10, 15
15 years, something like that.
- 16 Q. The other thing I wanted to inquire of probably both of
17 you, but pick who starts, is the questions about the
18 relationship between the least cost planning
19 submissions and the decision-making that the Company
20 does day-to-day in its purchasing. And, you stated
21 that you need flexibility, that it can't be an absolute
22 lock on your decision-making. But where do you -- how
23 much can the Commission rely on the contents of the
24 plan as a planning document that will guide the

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1 Company? I think we can all agree that it's not locked
2 in stone. But how far do we go from individual
3 decisions to -- that are merely historical, which
4 you've talked about, for decisions made in 2007 that
5 were included in the plan, versus a planning process to
6 guide decision-making going forward?

7 A. (Errichetti) Well, probably belongs -- this probably
8 belongs in that docket. But, I mean, you know you have
9 generation, and I guess what's become apparent in the
10 last so many months is that we don't know what our
11 Energy Service sales requirement is going to be, and
12 yet there's a space between them. And, heretofore, the
13 migration wasn't an issue. It wasn't as big an issue.
14 And, so, we basically said "let's manage the price and
15 price certainty." I think what's being -- what was
16 being suggested a little while ago perhaps is "well,
17 you take your gen, you have a gap, buy it in the spot
18 market, and that's what in the least cost plan. Don't
19 try to anticipate." There would be quite a sea change.
20 But it might be better than where we find ourselves
21 now, in hindsight.

22 So, you know, I was going to say "well,
23 there's call options. There's, you know, unit
24 contingent purchases. There's firm strips. And,

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1 there's just let it ride in the market." And, those
2 are a handful of the tools to manage the gap. Capacity
3 is no longer really a bilateral product in New England,
4 because it's -- the requirement is set three years
5 ahead, and load just pays its pro rata share of the
6 bill. Whereas, in the past, you could actually enter
7 into, you know, private arrangements. So, I think it's
8 clearly ripe for discussion in the upcoming least cost
9 plan. And, because migration has become real, we need
10 to address that head on.

11 Q. Mr. Baumann, anything you want to add on that sort of
12 relationship between the planning document that lays
13 out both historic purchases and what should be sort of
14 guidance for future purchasing?

15 A. (Baumann) Yes. And, Commissioner, actually, maybe you
16 saw it in my eyes, I just want to say that, I don't
17 deal as much as Mr. Errichetti in this area, but I've
18 always viewed in the least cost plan as kind of a
19 structure that we'd work within. But it's not a jail.
20 In other words, there are doors that you can -- that
21 you can go in and out of, as opposed to jail, you stay
22 within that structure. Because, from what I -- when I
23 do look at least cost plans, you know, there is a lot
24 of historical data in there. And, while you can

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1 certainly learn from history, the ever-changing
2 markets, and, certainly, in the last 18 months, we've
3 seen markets that have just been -- just not
4 anticipated by anybody. So, that's kind of how I've
5 always kind of explained it. When I do some training
6 programs or something, I'll say, "you know, you have
7 this Least Cost Plan. It's a structure. But you can't
8 make it a jail, because you have to have flexibility to
9 maintain that going into the future." That's how I've
10 always viewed it, characterized it actually to people
11 that I've talked to.

12 CMSR. IGNATIUS: Thank you.

13 CHAIRMAN GETZ: Redirect, Mr. Eaton?

14 MR. EATON: Yes.

15 REDIRECT EXAMINATION

16 BY MR. EATON:

17 Q. Mr. Baumann, Mr. Rodier asked some questions concerning
18 the migration in the State of Connecticut. Do you
19 remember those questions?

20 A. (Baumann) Yes.

21 Q. Are you familiar with the equivalent rate to the Energy
22 Service rate that PSNH has, the equivalent rate that is
23 for your company, Connecticut Light & Power?

24 A. (Baumann) Yes.

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[WITNESS PANEL: Baumann|Errichetti]

1 Q. And, for residential, what has the price been for that,
2 for that rate, since divestiture of the Company's
3 generating resources?

4 A. (Baumann) Since divestiture?

5 Q. Well, in --

6 A. (Baumann) I can bring it back in my brain here. For
7 the first four years, it was a set price. And, let me
8 -- from year 2000 to 2003, it was a set price of about
9 four and a half cents a kilowatt-hour. 2004, because
10 they had a four year RFP in 1999, once we got into 2003
11 and 2004, they started going to annual RFPs for
12 100 percent of the load. At that point, we really
13 didn't have any migration. The prices -- The prices by
14 the beginning of 2006 had increased to over 10 cents a
15 kilowatt-hour, for the -- what we call "Standard
16 Service", or back then it was called "SOS", Standard
17 Offer Service. I remember the acronym. So, by early
18 2010, it was over 10 cents. Since then, it has gone
19 up, I think the highest was in 2008, and it got up into
20 like 12.7 cents a kilowatt-hour. And, again, this is
21 for the Standard Service customers. This is the --
22 generally, these residential and small C&I customers.
23 Very similar to what you see today in New Hampshire
24 with the larger customers with high -- you know, good

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[WITNESS PANEL: Baumann|Errichetti]

1 load profiles and high load that are migrating. Today,
2 the rate is 12.2 cents a kilowatt-hour for the Standard
3 Service. I believe the proposed rate for 1/1/2010 is a
4 decrease, but it's in -- I think it's in the high --
5 it's somewhere in the 11 cents per kilowatt-hour. We
6 certainly have seen, with the sale of generation, we
7 have seen very, very large and rapid increases in our
8 price of electricity, and it's become a dominant
9 factor, unfortunately, in our price -- total price of
10 electricity to customers in Connecticut and in
11 Massachusetts, Western Massachusetts Electric Company.

12 Q. And, how is that power supply accumulated and priced?

13 A. (Baumann) Well, it's -- we go out for 100 percent of
14 the required load, we go out for RFPs, on a cycled
15 basis. In Connecticut, we ladder two and three years
16 in advance for the load obligations each year.
17 Massachusetts has a 50 percent laddering every six
18 months. So, they reach out for like a year 50 percent,
19 and they overlap it, every six months they roll
20 forward. So, generally -- but it's basically, I mean,
21 it's very similar to what TransCanada had recommended
22 in their testimony as to, you know, "go out and have a
23 full RFP process, transparent", and I don't remember
24 the acronyms that they keep using. But that's

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[WITNESS PANEL: Baumann|Errichetti]

1 generally what they do in Connecticut and
2 Massachusetts. We own no generation in either of those
3 jurisdictions anymore. So, it's 100 percent marketing
4 RFPs.

5 MR. EATON: Thank you. That's all I
6 have on redirect.

7 CHAIRMAN GETZ: All right. Then, you're
8 excused for today, gentlemen. Thank you.

9 WITNESS BAUMANN: Thank you.

10 CHAIRMAN GETZ: Why don't we try to get
11 Mr. Mullen's direct taken care of. Is anybody else going
12 to have questions for Mr. Mullen? Mr. Eaton, I guess you
13 indicated you would have no cross for Mr. Mullen. You're
14 going to have some cross, Mr. Patch?

15 MR. PATCH: I have a little bit, maybe
16 10 or 15 minutes.

17 CHAIRMAN GETZ: And, Ms. Hatfield, do
18 you have cross for Mr. Mullen?

19 MS. HATFIELD: Yes, just a few minutes.

20 CHAIRMAN GETZ: All right. Well, let's
21 just get the direct taken care of, and then we'll recess
22 for the day.

23 MS. AMIDON: Shall I call Mr. Mullen to
24 the stand?

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[WITNESS: Mullen]

1 CHAIRMAN GETZ: Please.
2 (Whereupon Steven E. Mullen was duly
3 sworn and cautioned by the Court
4 Reporter.)

5 STEVEN E. MULLEN, SWORN

6 DIRECT EXAMINATION

7 BY MS. AMIDON:

8 Q. Good afternoon, Mr. Mullen.

9 A. Good afternoon.

10 Q. Would you please state your full name for the record.

11 A. My name is Steven Mullen.

12 Q. And, please tell me who you are employed -- where you
13 are employed, and what your position is in your
14 employment.

15 A. I'm employed by the New Hampshire Public Utilities
16 Commission as the Assistant Director of the Electric
17 Division.

18 Q. And, have you testified before the Commission
19 previously?

20 A. Yes, I have.

21 Q. Do you have in front of you a document that was filed
22 with a cover letter signed by me dated December 2nd,
23 2009?

24 A. Yes, I do.

[WITNESS: Mullen]

1 Q. And, can you tell me what the attachment is to that
2 letter?

3 A. That's my prefiled direct testimony in this proceeding.

4 Q. And, do you have any corrections to this testimony?

5 A. No, I do not.

6 MS. AMIDON: So, Mr. Chairman, I believe
7 we're up to Exhibit 23?

8 CHAIRMAN GETZ: Is it 23?

9 MS. DENO: Twenty-two.

10 MS. AMIDON: Twenty-two? Okay.

11 CHAIRMAN GETZ: We'll mark Mr. Mullen's
12 testimony for identification as "Exhibit Number 22".

13 (The document, as described, was
14 herewith marked as Exhibit 22 for
15 identification.)

16 MS. AMIDON: Thank you. He's available
17 for cross. I don't know if you want to get started.

18 CHAIRMAN GETZ: Okay. Well, we'll see
19 you tomorrow, Mr. Mullen.

20 (Chairman and Commissioners conferring.)

21 CHAIRMAN GETZ: All right. One last
22 issue I want to address before we recess for today, and
23 that's with respect to the partial objection to the Motion
24 for Protective Order filed by TransCanada. And, we're

1 going to deny that motion. But, also, I think it's
2 important to recognize the timing constraints and
3 considerations of the way the Energy Service dockets have
4 proceeded over time and their relationship to the
5 reconciliation proceedings. And, I think, in some
6 respects, it's fair to argue that a Energy Service
7 proceeding is analogous to a temporary rate proceeding,
8 and therefore a less stringent standard of review would
9 apply. So, in that regard, we've denied the motion today.
10 But, in the context of a reconciliation proceeding, we'll
11 consider, if TransCanada or any other party wants to make
12 again some arguments with respect to the extent of
13 confidentiality that should apply, then we'll consider
14 those arguments at that time.

15 CMSR. IGNATIUS: And, I think that one
16 of the notions that is interesting in Mr. Patch's motion
17 was whether there is any form of kind of a middle ground
18 of some aggregated information or other ways of opening up
19 to an extent without fully disclosing information that is
20 very sensitive, and to be disclosing it to competitive
21 entities is problematic. And, so, between now and when
22 we're next in the proceeding looking at this, as Chairman
23 Patch -- Chairman Getz said, it would be interesting if
24 the parties were able to come to any kind of

1 recommendation that could aggregate information or do
2 something that is mutually acceptable, to provide some
3 information without the full degree of detail that was
4 requested initially.

5 CHAIRMAN GETZ: Mr. Patch.

6 MR. PATCH: Mr. Chairman, could I just
7 ask one clarification. You said "deny the motion".

8 CHAIRMAN GETZ: Or deny --

9 MR. PATCH: I think you meant "deny the
10 objection".

11 CHAIRMAN GETZ: Yes. We will overrule
12 the partial objection in whole.

13 MR. PATCH: Thank you. I mean, I
14 shouldn't say "thank you". But thank you for the
15 clarification.

16 MR. EATON: If you hadn't asked for the
17 clarification, I would have.

18 MR. PATCH: Okay.

19 CHAIRMAN GETZ: All right. Then, let's
20 recess for today and we'll resume tomorrow at 1:00. Thank
21 you.

22 (The hearing was adjourned at 4:58 p.m.,
23 and to resume December 11, 2009.)

24

