

Investigation into Effect of Customer Migration on Energy Service Rates)	Docket No. DE 10-160
)	

Pursuant to New Hampshire RSA 541:3, Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. (“Constellation”) hereby respectfully requests the New Hampshire Public Utilities Commission (“Commission”) clarify certain portions of its July 26, 2011 Order No. 25,256, Order Following Hearing (“Order”)¹ entered in the above captioned proceeding. In support of this Request for Clarification, Constellation states as follows:

¹ Order No. 25,256, (July 26, 2011) Docket No. DE 10-160 (“Order”).

² *Id.* at p. 26.

In order to avoid the costs associated with a dwindling default load base, Constellation and several other parties suggested the Commission require PSNH to utilize an RFP process for solicitation and acquisition of its default service load. Constellation noted that use of a Full Requirements Service model (“FRS”) would result in a fixed, market based rates for the default customers, requiring the FRS provider to bear the risk associated with out-of-the market power costs. Constellation further noted that the State’s two other major default service providers, Granite State Electric Company and Unitil Energy Systems, both rely upon a FRS model to service their default customer load.³

In its Order, the Commission rejected the use of FRS for PSNH’s ES load, finding that “[a]n FRS model for PSNH, however, is inconsistent with RSA 369-B:3, IV(b)(1)(A), which requires PSNH to supply default service from its generation assets.”⁴ While the Commission found no statutory barrier to requiring the use of FRS by PSNH when obtaining supplemental power that cannot be met through its owned generation the Commission also noted the dwindling need for supplemental power in light of increasing levels of customer migration and therefore saw no value in requiring the use of FRS for a vanishing supplemental need.

On the separate issues of retirement and divestiture the Commission declined to resolve the statutory question of whether it has the authority to order PSNH to retire or divest its generation but clearly acknowledged the possibility of future a retirement or sale as a result of voluntary action by PSNH, future action by the Legislature or a future disallowance or other action by the Commission.⁵

³ See Order at pp. 33-34.

⁴ *Id.*

⁵ *Id.* at pp. 36-37.

As multiple parties pointed out in briefing, the continued provision of default service from PSNH assets was only intended to be temporary until the assets were divested.⁶ The Commission's decision not to order FRS for supplemental power requirements, therefore, acknowledges the present state of affairs in which the output of PSNH generation may soon be in excess of its ES requirements. However, it fails to address the future situation in which PSNH's ES load exceeds its owned generation output is likely to increase dramatically as a result of retirement or divestiture. Constellation respectfully requests the Commission enter an order clarifying that its findings in the Order with respect to utilizing a FRS model for PSNH's default service load: (1) does not preclude the divestiture or retirement of PSNH's generation assets; and (2) does not prejudge the merits of adopting a FRS model in the event of such divestiture or retirements of the PSNH generation assets.

WHEREFORE, Constellation respectfully requests that, pursuant to RSA 541:3, the Commission grant this Request for Clarification consistent with the arguments above.

Respectfully submitted,

/s/ Joseph E. Donovan
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*On behalf of Constellation Energy Commodities Group,
Inc. and Constellation NewEnergy, Inc.*

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⁶ See, e.g., Initial Brief of the Retail Energy Supply Association and Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. at p. 23, citing RSA 369-B:3, IV(b)(1)(A).

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition has been forwarded this 24th day of August, 2011 to the service list in the above-captioned proceeding.

/s/ Joseph E. Donovan
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