

DE 11-250

LAW OFFICES
ARTHUR B. CUNNINGHAM

79 Checkerberry Lane, Hopkinton, NH 03229

NH PUC 10 OCT 13 PM 12:15

October 8, 2013

Debra A. Howland
Executive Director and Secretary
Public Utilities Commission
21 South Fruit Street
Concord, NH 03301-2429

Via email

Re: DE 11-250, Investigation of PSNH's Installation of Scrubber Technology at Merrimack Station.

Dear Secretary Howland:

My comments are submitted pursuant Puc 203.18 as a Public Service Company of New Hampshire (PSNH) ratepayer.

The PSNH challenge of Public Utilities Commission (Commission) jurisdiction to the New Hampshire Supreme Court before the prudency investigation of the Merrimack Station scrubber is complete demands a strong response.

The issues:

One, no examination has been made of the exact destination of the \$422,000,000 PSNH claims was spent on the scrubber and if all the money went to the scrubber

Two, the discovery history of the scrubber litigation suggests that some of the \$422,000,000 was spent on life extension and generation upgrades at Merrimack Station.

The concern is that the substantial increase in costs of the scrubber project are attributable to plant life extension projects, including generation upgrades, that were not required by RSA 125-O. RSA 369-B:3-a does not permit modification of generation without a public interest determination by the Commission. No such determination has been made.

The comments are based on my work as an attorney of record in NHDES-Air Resources Council (NHDES-ARC), dockets ARC 09-10, Temporary Permit TP-0008 and ARC 10-06, Proposed Title V Operating Permit, Merrimack Station and in various PUC dockets, particularly DE 08-103, Investigation of PSNH Installation of Scrubber Technology at Merrimack Station.

First, in preparation for hearing of ARC 09-10, I discovered that PSNH had, without any public process, replaced the MK2 turbine at Merrimack Station. This was a generation upgrade.

Second, during that case preparation, I obtained documents that prove PSNH engaged in a comprehensive study of life extension projects for Merrimack Station. The documents include “Merrimack Station Unit 2 Boiler Replacement Feasibility Study”, dated November, 2004, prepared by Burns & McDonnell; “Preliminary Permit Plan Analysis-Critical Path Issues, Multi-Pollutant Control Strategy Options”, dated July 26, 2005, prepared by GZA Geo Environmental, Inc.; and, “Merrimack Boiler Study”, dated February 1, 2007, prepared by Sargent & Lundy, LLC. Commission staff has entered the studies into the record of this docket.

The Merrimack Station life extension studies examine the engineering, capital costs, operation and maintenance cost projections, and, environmental permitting requirements for various life extension options for Merrimack Station, including replacement of the boiler, projects that are substantially more extensive than the scrubber project. These studies provide a discovery road map into the question of whether all the \$422,000,000 was spent on the scrubber.

To date, this critical discovery has not been done by any party to the scrubber docket.

I urge the Commission to aggressively assert its authority under RSA 369-B:3-a to the Supreme Court in order that it be permitted to conclude a full examination of the scrubber costs.

Very truly yours,

Arthur B. Cunningham

cc: Service list