

STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

Docket No. DE 11-250

Public Service Company of New Hampshire
Investigation of Merrimack Station Scrubber Project and Cost Recovery

New England Power Generators Association, Inc. Petition to Intervene

New England Power Generators Association, Inc. ("NEPGA"), through counsel, Orr & Reno, P.A., respectfully petitions the New Hampshire Public Utilities Commission ("Commission") for authorization to intervene in this proceeding under RSA 541-A:32 and Commission rules at Puc 203.17. In support of this petition, NEPGA represents as follows:

1. By Order of Notice dated December 1, 2011, the Commission opened this proceeding to address Public Service Company of New Hampshire's ("PSNH") request to recover the costs of the Scrubber Project at Merrimack Station from PSNH ratepayers. As set forth in the Order of Notice, the issues to be addressed in this proceeding include "issues related to whether the costs of the Scrubber Project were prudently incurred consistent with the requirements of RSA 125-O:11 et seq. and are eligible for recovery through default service rates as provided by RSA 125-O:18; whether temporary rates pursuant to RSA 378:27 are appropriate for recovery of any costs associated with the Scrubber Project; and whether the resulting rates are just and reasonable pursuant to RSA 378:5 and 8." *Id.* at 3.

2. The Commission also invited each party seeking intervention to file a petition on or before December 8, 2011 with supporting facts demonstrating how its

rights, duties, privileges, immunities or other substantial interest may be affected by the proceeding.

3. The statutory standards for intervention are set forth in RSA 541-A:32, I and II. First, a petition for intervention *must* be granted if the petitioner states facts demonstrating how its rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding (or the petitioner qualifies under any provision of law) and the interests of justice and orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention. *See* 541-A:32, I (b) and (c). Second, a petition to intervene *may* be granted at any time if it is determined that the intervention would be in the interests of justice and would not impair the orderly and prompt conduct of the proceedings. *See* RSA 541-A:32, II. *See also* Puc 203.17 (requiring the Commission to grant one or more petitions to intervene in accordance with the standards of RSA 541-A:32).

4. NEPGA meets both mandatory and discretionary intervention standards. NEPGA is the largest trade association representing competitive electric generating companies in New England whose mission is to enhance economic development and employment through sound energy and environmental determinations. NEPGA's member companies produce approximately 27,000 megawatts of generating capacity in the region, with more than 2,600 megawatts represented by New Hampshire member companies. NEPGA's members sell their energy and capacity into the New England wholesale power markets administered by ISO-New England – the same markets from which PSNH purchases power to supplement its own generation resources, including

Merrimack Station. NEPGA members also have experience in installation and financing of pollution control equipment on electrical generation facilities.

5. As a representative of a substantial market share within the regional energy market and as a representative of New Hampshire companies that must compete within that market, NEPGA's interests will likely be affected by this proceeding. Given the broad scope of the cost recovery and ratemaking issues raised in the Order of Notice, there is the potential for direct and possibly adverse economic impact upon NEPGA and its member companies as a result of Commission orders issued in this proceeding. No other party can represent NEPGA's broad interests or the rights and interests of NEPGA's member companies as a group. Thus, NEPGA has a substantial and direct interest in consideration and resolution of cost recovery and other issues related to the Scrubber Project and these interests cannot be adequately represented by any other party to the proceeding.

6. Granting NEPGA's petition for intervention would not impair the interests of justice and would not impair the orderly and prompt conduct of the proceedings. In fact, granting intervention would promote the interests of justice under RSA 541-A:32, II because NEPGA is able to represent the interests of many companies that might otherwise seek to intervene on their own behalf, thereby avoiding intervention by many individual companies.

7. NEPGA is also a potential source of information on many of the key issues to be considered by the Commission in this proceeding, including the impact of environmental regulations and the design, installation and financing of pollution control equipment.

8. The Commission has recently permitted NEPGA to intervene in other Commission proceedings, including Docket No. 10-160 (PSNH Customer Migration), Docket No. 10-261 (PSNH Least Cost Integrated Resource Plan) and Docket No. 10-195 (PSNH Petition for Approval of Power Purchase Agreement). The proceedings were not impaired. The Commission's ability to grant intervention as a matter of discretion under RSA 541-A:32, II upon determining that it would be in the interests of justice and would not impair orderly and prompt conduct of the proceedings allows it to grant intervention here on the same basis.

For these reasons, NEPGA respectfully requests that the Commission grant this Petition to Intervene and such other relief as may be deemed just and appropriate.

Respectfully submitted,

NEW ENGLAND POWER GENERATORS
ASSOCIATION, INC.

By Its Attorneys

ORR & RENO, P.A.
One Eagle Square
P.O. Box 3550
Concord, NH 03302-3550

By: Howard M. Moffett
Howard M. Moffett (NHBA #1780)
Telephone: (603) 223-9132
Email: hmoffett@orr-reno.com
Dated: December 8, 2011

By: Maureen D. Smith
Maureen D. Smith (NHBA #4857)
Telephone: (603) 223-9166
Email: msmith@orr-reno.com
Dated: December 8, 2011

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition to Intervene has on this 8th day of December 2011 been sent by email to the service list in DE 11-250.

Maureen D. Smith
Maureen D. Smith (NHBA #4857)