

**STATE OF NEW HAMPSHIRE**  
**before the**  
**PUBLIC UTILITIES COMMISSION**

Docket No. DE 11-250

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE**

**Investigation of Merrimack Station Scrubber Project and Cost Recovery**

**MOTION IN LIMINE OF**  
**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE**  
**TO STRIKE PORTIONS OF THE PREFILED TESTIMONY OF**  
**STEPHEN R. ECKBERG**

September 10, 2014

In accordance with Rule Puc 203.07 and the procedural schedule for this proceeding, Public Service Company of New Hampshire (“PSNH” or the “Company”) hereby moves to strike portions of the prefiled testimony of Mr. Stephen R. Eckberg filed on behalf of the Office of Consumer Advocate that address the application of the so-called “used-and-useful” ratemaking standard.<sup>1</sup>

In support of this Motion, PSNH states:

1. On September 8, 2014, the Commission issued Order No. 25,714, “Order on the Office of Consumer Advocate’s Motions to Strike Rebuttal Testimony.” In that Order, the Commission directed that certain portions of the rebuttal testimony of Mr. William H. Smagula, P.E., be stricken. Included in the testimony to be stricken were the following pieces of Mr. Smagula’s

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<sup>1</sup> PSNH notes that Mr. Eckberg is no longer employed by the OCA. To date, the OCA has not indicated whether Mr. Eckberg’s prefiled testimony will be adopted by someone else, and if so, who that individual is. PSNH encourages the Commission to determine the status of Mr. Eckberg’s testimony because if that testimony will not be adopted by another witness this Motion would be moot, and if it will be adopted by someone else the parties have a right to know in time to make whatever inquiries are necessary and appropriate regarding the qualifications of that witness.

testimony: page 22 (Bates 22), line 3 through page 24, line 5; and page 25 (Bates 25), line 7 through page 26, line 3. In these portions of testimony, Mr. Smagula provides evidence that the scrubber is “used and useful” in the provision of utility service (the “used and useful testimony”).

2. On December 31, 2013, PSNH filed a motion captioned, “Motion to Strike Testimony relating to the Used and Useful Ratemaking Concept.” By Order No. 25,640 the Commission denied that motion, without prejudice. Order No. 25,640 at 10, 13. The basis for denial of PSNH’s December 31, 2013, motion was that it was not “concise” as it did not state the specific testimony to be stricken. *Id.* at 10. PSNH incorporates herein the content of that December 31, 2013, “Motion to Strike Testimony relating to the Used and Useful Ratemaking Concept” by reference.

3. Based upon the Commission’s decisions in Order Nos. 25,640 and 25,714, PSNH requests that the Commission strike the following portions of the prefiled testimony of Mr. Eckberg:


- a. Page 2, lines 3-4: “The degree to which any prudent investments are used and useful in provision of service to customers.”
- b. Page 4, line 25 through page 5, line 3: “Rather, as information supplied by the Company demonstrates, the investment is not now used and useful in the operation of the CAP. Therefore it is not reasonable for the Company to include the costs related to this component of the CAP in rate base and earn a return on them as they are not providing service to customers.”
- c. Page 7, line 14 through page 10, line 1: the entirety of which Mr. Eckberg dedicates to the “used and useful concept.”

- d. Attachment SRE-9: the entirety of which Mr. Eckberg relates to the “used and useful concept.”
- e. Attachment SRE-10: the entirety of which Mr. Eckberg relates to the “used and useful concept.”
- f. Attachment SRE-11: the entirety of which Mr. Eckberg relates to the “used and useful concept.”

**WHEREFORE**, PSNH respectfully requests that the Commission strike the portions of the prefiled testimony of Mr. Stephen R. Eckberg as specified herein.

Respectfully submitted this 10<sup>th</sup> day of September, 2014.

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE**

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### **CERTIFICATE OF SERVICE**

I hereby certify that on September 10, 2014, I served an electronic copy of this filing with each person identified on the Commission's service list for this docket pursuant to Rule Puc 203.02(a).



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