

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
MICHAEL E. HACHEY

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. Michael E. Hachey filed on behalf of TransCanada.

In support of this Motion, PSNH states:

1. On December 31, 2013, PSNH filed certain motions including a, “Motion to Strike Testimony relating to the Used and Useful Ratemaking Concept” and a “Motion to Strike Testimony Relating to PSNH's Alleged Duty to Seek a Variance Pursuant to RSA 125-O:17.” By Order No. 25,640 the Commission denied those motions, without prejudice. Order No. 25,640 at 10, 13. The basis for denial of PSNH’s two referenced motions was that they were not “concise” as they did not state the specific testimony to be stricken. *Id.* at 10. PSNH incorporates herein the content of its December 31, 2013, “Motion to Strike Testimony relating

to the Used and Useful Ratemaking Concept” and “Motion to Strike Testimony Relating to PSNH's Alleged Duty to Seek a Variance Pursuant to RSA 125-O:17” by reference.

2. 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 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”).

3. In Order No. 25,714, discussing the variance provision of the Scrubber Law (RSA 125-O:17) the Commission noted that it had “later ruled that the variance provision of the Scrubber law may not have been a proper ‘off ramp’ had PSNH chosen to discontinue the Scrubber and retire Merrimack Station, Order No. 25,506 at 17 (May 9, 2013)... .” Order No. 25,714 at 6.¹

4. Based upon the Commission’s decisions in Order Nos. 25,506; 25,640; and 25,714, PSNH requests that the Commission strike the following portions of the prefiled testimony of Mr. Hachey:

- a. Page 4, lines 7 to 10: testimony relating to the variance provision of the Scrubber Law which the Commission has deemed inapposite to this proceeding.

¹ In Order No. 25,506, the Commission held at page 17, “To the extent that Order No. 25,445 interpreted the variance provision, RSA 125-O:17, to allow retirement of Merrimack Station rather than installation of the scrubber technology as a method of meeting the emissions reduction requirements, that portion of Order No. 25,445 alone is reversed.”


- b. Page 6, line 22 through the word “Second” on page 7, line 2: testimony relating to the variance provision of the Scrubber Law which the Commission has deemed inapposite to this proceeding.
- c. Page 23, lines 17 through 20: testimony relating to the used and useful concept which the Commission deemed irrelevant in Mr. Smagula’s testimony.
- d. Page 28, lines 14 through 16: testimony relating to the variance provision of the Scrubber Law which the Commission has deemed inapposite to this proceeding.

5. PSNH also notes that there are significant portions of Mr. Hachey’s testimony that contain “legal analysis” or address “legislative history” as discussed in Order No. 25,714. PSNH asks that the Commission confirm that such portions of Mr. Hachey’s testimony will be treated in a manner identical to similar portions of PSNH’s rebuttal testimony.

WHEREFORE, PSNH respectfully requests that the Commission strike the portions of the prefiled testimony of Mr. Michael E. Hachey as specified herein.

Respectfully submitted this 10th 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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