

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
DR. RANAJIT SAHU

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 Dr. Ranajit Sahu filed on behalf of the Sierra Club.

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, including, *inter alia*:

- a. Portions of testimony relating to alternate technologies, based on the decision that, “The choice of technology is not a decision we review in this docket.” Order No. 25,714 at 12. (“Choice of Technology” irrelevance.)
- b. Portions of testimony outside of the relevant time period for testimony, i.e., June 2006 through September 2011, because, “We are to judge what a

reasonable utility manger would do under circumstances existing at the time of the challenged decisions.” *Id.* at 10. (“Time Period” irrelevance).

- c. Portions of testimony in Section III, “Rebuttal to Selected Intervenor Testimony,” specifically rebutting Dr. Sahu’s prefiled testimony, including, *inter alia*:
 - i. The deletion of the question beginning on page 31, line 8 asking, “Dr. Sahu state that PSNH irresponsibly incurred hundreds of millions in Merrimack Station. Do you agree with his opinion?” and the answer to that question;
 - ii. The deletion of the question beginning on page 32, line 1 asking, “Do you see other examples where Dr. Sahu’s statements are not consistent with the actual circumstances at the PSNH coal plants?” and the answer to that question;
 - iii. The deletion of the question beginning on page 32, line 10 asking “Dr. Sahu also said, regarding Schiller Station, that PSNH was caught ‘flat footed’ and has a ‘mess’ on our hands as a result of the MATS regulations. Is this a fair characterization?” and the answer to that question;
 - iv. The deletion of the question beginning on page 32, line 15 asking “Do you have another example where Dr. Sahu’s discussion is not consistent with a reasonable planning scenario associated with potential environmental regulations?” and the answer to that question.

(Collectively, “Sahu” irrelevance.) If Mr. Smagula’s rebuttal to specific portions of Dr. Sahu’s testimony has been stricken as irrelevant, then Dr. Sahu’s underlying testimony must also be irrelevant; otherwise, the Commission’s Order striking the rebuttal would result in a situation allowing direct testimony to proceed with no opportunity for rebuttal.

2. Based upon the Commission’s relevance decisions in Order No. 25,714, PSNH requests that the Commission strike the following portions of the prefiled testimony of Dr. Sahu on the basis set forth for each:

- a. Page 4, footnote 1 – “Choice of Technology” irrelevance” – this footnote discusses the choice of technology, a matter outside of this proceeding.
- b. Page 6, the second full paragraph beginning with the words “By 2008, it was” and continuing through the first full paragraph on page 7, ending with the words “pollution from power plants,” along with associated footnotes – “Sahu” irrelevance – The Commission struck as irrelevant Mr. Smagula’s testimony rebutting Dr. Sahu’s testimony relating to his greenhouse gas testimony.
- c. Page 7, entire first full paragraph, beginning with the words “I note,” and the associated footnote 6 -- “Time Period” irrelevance – this testimony relates to matter outside of the relevant time period.
- d. Page 7, the second full paragraph, beginning with the words “Finally, by 2008,” and associated footnotes 7, 8, and 9 – “Sahu” irrelevance – The Commission struck as irrelevant Mr. Smagula’s testimony rebutting Dr. Sahu’s testimony relating to the Mercury and Toxics Rule (MATS).

- e. Page 8, the four sentences beginning with the words “PSNH will need to comply with the MATS” through the end of that paragraph – “Sahu” irrelevance – The Commission struck as irrelevant Mr. Smagula’s testimony rebutting Dr. Sahu’s testimony relating to the Mercury and Toxics Rule (MATS). It also struck as irrelevant Mr. Smagula’s rebuttal to Dr. Sahu’s contention that PSNH was caught “flat footed” as a result of the MATS regulations.
- f. Page 9, the entire first full paragraph, beginning with the words, “In fact, EPA ultimately did,” and the associated footnote 14 -- “Time Period” irrelevance-- this testimony relates to matter outside of the relevant time period.
- g. Page 10, the five sentences beginning with the words, “PSNH is faced with tens of millions of dollar” and ending with “as power producers in the future,” along with the associated footnotes 15 and 16 -- “Time Period” irrelevance-- this testimony relates to matter outside of the relevant time period.
- h. Page 10, the entire paragraph -- “Sahu” irrelevance – The Commission struck as irrelevant sections of Mr. Smagula’s testimony rebutting this portion of Dr. Sahu’s testimony which states PSNH “irresponsibly incurred the hundreds of millions of dollars now sunk into the Merrimack Scrubber Project” and that there are “significant additional investment at Schiller to meet the MATS Rule.”

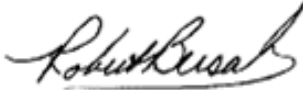
3. PSNH also notes that there are significant portions of Dr. Sahu’s testimony that contain “legal analysis” as discussed in Order No. 25,714 wherein he makes legal conclusions as to how a law might apply to PSNH. PSNH asks that the Commission confirm that such portions of Dr.

Sahu'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 Dr. Ranajit Sahu as specified herein.

Respectfully submitted this 10th day of September, 2014.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

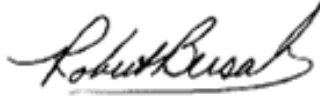
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CERTIFICATE OF SERVICE

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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