

ORIGINAL

N.H.P.U.C. Case No. DE 12-295

Exhibit No. 4

Witness Panel 1

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STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

Docket No. DE 12-295

POWER NEW ENGLAND, LLC

Petition for Review of the Reasonableness of Certain Charges of Public Service
Company of New Hampshire for Services to Competitive Suppliers

DIRECT TESTIMONY

OF

KEVIN DEAN

On Behalf of

Electricity N.H., LCC d/b/a E.N.H. Power

March 26, 2013

1 **I. INTRODUCTION AND BACKGROUND**

2 **Q. Mr. Dean, please state your full name, position and business address.**

3 A. My name is Kevin Dean. I am a co-owner of Electricity N.H., LLC d/b/a E.N.H.
4 Power (“ENH Power”). My business address is PO Box 1150, Auburn, ME 04211.

5 **Q. Mr. Dean, please summarize your professional and educational background.**

6 A. I have a degree from New Mexico State University in finance and computer
7 science. For the past twenty five years I have developed software and have started and
8 operated over thirty businesses. Currently I own and operate a healthcare claims
9 clearinghouse that submits over one million healthcare claims via electronic data
10 interchange (“EDI”) every year to insurance companies. In addition, I am a co-owner of
11 Provider Power, the parent company of ENH Power.

12 **Q. Please describe Provider Power and ENH Power.**

13 A. Provider Power currently has active retail electricity operations in two states –
14 Maine and New Hampshire – and it is in the process of expanding to several additional
15 states. Electricity Maine, Provider Power’s subsidiary in Maine, has been in operation
16 since 2010 and provides competitive electric service to over 175,000 customers. Via
17 Electricity Maine, Provider Power cooperates successfully with Central Maine Power
18 (“CMP”), the largest distribution utility in Maine.

19 ENH Power began providing competitive electric service to New Hampshire
20 customers in August, 2013. ENH Power estimates that it has over 50,000 customers in
21 New Hampshire as a whole, and approximately 47,000 customers in Public Service
22 Company of New Hampshire’s (“PSNH”) service territory.¹ Of the PSNH customers,

¹ This estimate includes customers that have signed up for supply service with ENH Power, but may not have completed the switching process from their default service.

1 approximately 46,000 are residential customers and 1,000 are small Commercial and
2 Industrial (“C&I”) customers.

3 **Q. Have you ever testified before this Commission?**

4 A. No.

5 **Q. What is the purpose of your testimony?**

6 A. My testimony will focus on three charges contained in PSNH’s Electricity
7 Delivery Service Tariff – NHPUC No. 8 Original Pages 31 through 40 – which are
8 identified as follows: (1) the \$ 5.00 per request “Selection Charge” which is assessed
9 when a customer switches to or from PSNH’s default service; (2) the “Billing and
10 Payment Service Charge” which PSNH charges on a \$0.50 per bill rendered basis for the
11 billing and payment services PSNH provides to a competitive service supplier who has
12 opted for consolidated billing services; and (3) the “Collection Services Charge” which is
13 billed at 0.252% of total monthly receivable dollars pursuant to a written agreement with
14 competitive suppliers. Together, I refer to these charges as “PSNH’s Charges.”

15 My testimony addresses the expansion of the competitive supply market for
16 residential customers in New Hampshire and the impact on that market caused by
17 PSNH’s Charges. It further addresses my experience regarding billing-related costs with
18 other utilities in New Hampshire and my experience with other utilities in other states, as
19 well as the reasonable cost of the services PSNH provides with respect to all three of
20 PSNH’s charges based upon Provider Power’s business experience.

21 **Q. Other than the tariff, are there other documents you are relying on to**
22 **understand PSNH’s Charges?**

1 A. Yes. In order to serve customers in PSNH's territory, we signed an Electric
2 Supplier Services Master Agreement (the "Agreement") with PSNH. The Agreement is
3 attached to this testimony as Exhibit A. The Agreement describes the services and
4 charges at issue in this docket, though in some ways it diverges from PSNH's tariff. As a
5 competitive supplier seeking to serve customers in PSNH's service territory, ENH Power
6 had limited or no practical ability to negotiate the terms of this contract with PSNH. The
7 contract informs my testimony regarding the services PSNH is providing in exchange for
8 the PSNH Charges.

9 I also rely on testimony of Gary A. Long and PSNH Steven R. Hall, and related
10 attachments, which were submitted to the Commission by PSNH in Docket DR 99-099,
11 and describe the basis for PSNH's Charges. Excerpts from the Long/Hall testimony and
12 relevant attachments thereto are included with this testimony as Exhibit B.

13 **Q. Please describe the expansion of the residential competitive supply market in**
14 **New Hampshire during 2012 and 2013.**

15 A. Until recently, the residential competitive supply market in New Hampshire was
16 very limited. Beginning in 2012, ENH Power joined a fledgling residential competitive
17 supply market after undergoing training and testing with PSNH, Liberty Utilities, New
18 Hampshire Electric Cooperative, and Unitil Energy Systems. According to PSNH's
19 filings in the Migration Docket, DE 06-125, approximately 2,500 residential customers
20 had migrated from PSNH at the start of 2012. Beginning in August 2012, ENH Power
21 has been enrolling between 3,000-10,000 customers each month.

22 As of the end of 2012, PSNH reported that over 30,000 residential customers have
23 migrated. However, there is a significant lag between customer enrollment with

1 competitive suppliers and reporting of migration by PSNH. As of today, ENH Power has
2 enrolled over 46,000 residential customers in PSNH's service territory. This represents
3 nearly 11% (out of 424,000 total customers) of PSNH's residential customer base, not
4 including customers who have migrated to other residential suppliers, such as North
5 American Power. While the residential competitive supply market has grown quickly in
6 the last year, the development of a healthy competitive market remains at a critical early
7 phase.

8 **II. The "Selection Charge"**

9 **Q. Please describe the Selection Charge.**

10 A. The Selection Charge was approved by the PUC in Order Number 23,443 (2000),
11 together with the other charges at issue in this docket. PSNH's tariff indicates that the
12 Company assesses competitive suppliers a five dollar charge each time a customer is
13 signed up, and each time a customer terminates a competitive supplier. This means, in
14 effect, that ENH Power must pay PSNH \$5 for each customer which signs up for
15 competitive service, and must also pay PSNH \$5 each time a customer switches
16 competitive suppliers or returns to default service. It is unclear whether PSNH charges
17 *both* competitive suppliers the \$5 charge in the event that a customer switches from one
18 competitive supplier to another. If that is the case, PSNH will collect \$10 each time a
19 single customer transfers between competitive suppliers.

20 **Q. What service does PSNH purportedly provide with respect to the Selection**
21 **Charge?**

22 A. The only service provided by PSNH in relation to the Selection Charge is to
23 enroll, drop or move a customer, each of which requires only a simple EDI transaction.

1 PSNH is required to perform this transaction pursuant to RSA 374-F in order to facilitate
2 a functioning competitive market.

3 **Q. How much money has ENH Power paid to PSNH for the Selection Charge to**
4 **date?**

5 A. Through March 1, ENH Power has been invoiced approximately \$174,000 in
6 Selection Charges by PSNH.

7 **Q. Do other utilities in the State of New Hampshire charge anything akin to a**
8 **Selection Charge?**

9 A. No. The competitive energy supplier service agreement prepared by Granite
10 State Electric Company d/b/a National Grid, lists a \$5 administrative charge for each
11 submitted customer enrollment transaction (but not for customer drops or moves).
12 However, Granite State Electric Company d/b/a/ Liberty Utilities has not assessed any
13 such fee against ENH Power for new enrollments, and Liberty Utilities' tariff contains no
14 similar charge. Unitil has no such fee.

15 **Q. Do utilities in Maine charge anything akin to a Selection Charge?**

16 A. No.

17 **Q. Do you have any knowledge regarding how much money it costs to provide**
18 **the service that PSNH is providing, as associated with the Selection Charge?**

19 A. Yes. As a competitive supplier in Maine and New Hampshire with over 220,000
20 residential customers, I have direct knowledge regarding the costs associated with
21 switching customers from default service to competitive supply, from competitive supply
22 to default service, or from one competitive supplier to another. This is because when

1 ENH Power or Electricity Maine sign up a new customer, we must perform an EDI
2 transaction adding that customer to the appropriate company's customer base.

3 **Q. Based on your business experience with the costs of switching customers, how**
4 **much money would you expect it to cost PSNH to perform the services associated**
5 **with the Selection Charge?**

6 A. According to the materials submitted by PSNH in Docket DR 99-099, the
7 Selection Charge "is intended to recover the administrative costs associated with all
8 supplier transactions including customer enrollments, drops and moves." Based on our
9 experience, competitive suppliers are permitted to enroll customers in PSNH's service
10 territory only after completing a training and testing process that demonstrates the
11 supplier's ability to communicate with PSNH through automated EDI transactions. Once
12 this process is complete, the supplier's information is coded within PSNH's system and
13 enrollments, drops, and move transactions should be fully automated.

14 **Q. Do you believe that PSNH and the Commission must now revisit this**
15 **charge?**

16 A. Yes. The Selection Charge was initially proposed by PSNH in Docket DR 99-
17 099. According to PSNH's own testimony,

18 PSNH did not prepare a cost analysis of the administrative costs but rather
19 adopted the amount used by Granite State Electric Company for the same
20 transaction (GSE's Tariff provides for a \$5 fee for each "enroll customer"
21 and "supplier drops customer" transaction). Given the uncertainty of the
22 magnitude of administrative costs and the number of transactions which
23 will occur in a "steady state", GSE's five dollar fee appears reasonable for
24 now and PSNH will revisit the fee in the future when actual costs are
25 better known.

26
27 Exhibit B at Attachment GAL/SRH-8, page 1 of 5. We believe that the evidence
28 in this docket requires PSNH to revisit this fee, as promised.

1 **III. The “Billing and Payment Service Charge.”**

2 **Q. Please describe the Billing and Payment Service Charge.**

3 A. The Billing and Payment Service Charge was approved by the PUC in Order
4 Number 23,443 (2000), together with the other charges at issue in this docket. PSNH’s
5 tariff indicates that:

6 The Company will provide Billing and Payment Service as an option to
7 Suppliers who have entered into a written agreement for Billing and
8 Payment Service with the Company for a minimum of one year. The
9 monthly Billing and Payment Service Charge, listed below, is for billing
10 arrangements which can be accommodated by the Company’s billing
11 systems without significant programming changes:

12 Billing and Payment Service Charge \$ 0.50 per bill rendered
13 Minimum Billing and Payment Service Charge \$ 100.00
14 per month
15

16 In effect, PSNH charges competitive suppliers \$ 0.50 for each individual bill issued to
17 customers who have chosen to receive competitive supply.

18 **Q. What service does PSNH purportedly provide with respect to the Billing and**
19 **Payment Service Charge?**

20 A. The tariff merely indicates that PSNH is providing “Billing and Payment Service”
21 to competitive suppliers and their customers for a certain fee. The contract referenced in
22 the Tariff indicates that:

23 Basic consolidated service includes reading the customer’s electric meter
24 on a billing cycle basis, calculating billing determinants, applying such
25 billing determinants against the Supplier rate and price option specified for
26 each customer in the EDI enrollment or subsequent change transaction,
27 incorporating the resulting Supplier charges with the Company’s delivery
28 service charges into a single consolidating bill, mailing such consolidated
29 bill to the customer, processing payment received from the customer,
30 allocating such payments between the Company and Supplier accounts
31 receivable, transmitting payments allocated to Suppliers on a daily basis
32 and transmitting all required EDI transactions resulting from such billing
33 and payments in accordance with EDI Standards.

1 Exhibit A at 3-4. It is notable that many of the services described in the contract, such as
2 reading a customer's electric meter and mailing a bill for services, are actions that PSNH
3 must take whether or not the customer is receiving competitive supply service. Other
4 actions, such as calculating billing determinants, are computerized and should be
5 accomplished automatically after initial setup with the competitive supplier.

6 **Q. How much money has ENH Power paid to PSNH for the Billing and**
7 **Payment Service Charge to date?**

8 A. Through March 1, 2013, ENH Power has been charged over \$38,000 by PSNH
9 for the Billing and Payment Service Charge.

10 **Q. Do other utilities in the State of New Hampshire charge anything akin to a**
11 **Billing and Payment Service Charge?**

12 A. No. Neither Liberty Utilities nor Unitil Energy Systems charge a fee for
13 consolidated billing services.

14 **Q. Do utilities in Maine charge anything akin to the Billing and Payment**
15 **Service Charge?**

16 A. Yes. CMP charges a fee for consolidated billing services of 26¢ per bill. This fee
17 was approved by the Maine Public Utilities Commission after demonstration of CMP's
18 incremental costs for supplier bill processing. CMP does not, however, charge fees for
19 customer selection or collections.

20 **Q. Are you aware of how PSNH calculated the cost of its Billing and Payment**
21 **Service Charge?**

22 A. According to testimony in Docket DR 99-099, PSNH calculated its per bill costs
23 in 1998 by calculating the total costs associated with billing and payment services and

1 dividing those costs by the number of bills generated per year. Exhibit B at Attachment
2 GAL/SRH-8, page 5 of 5. PSNH's cost estimate appears to reflect the total cost of billing
3 and payment services, even though bill creation, remittance processing, maintenance and
4 operation of PSNH's customer information system, and management of customer
5 accounts, are all costs of PSNH's distribution services. This may result in an
6 unreasonable subsidization of PSNH's distribution services by competitive suppliers. In
7 addition, PSNH should be required to update the costs of competitive supply-related
8 billing, which is now nearly 15 years out-of-date.

9 **IV. The "Collection Services Charge"**

10 **Q. Please describe the Collection Services Charge.**

11 A. The Collection Services Charge was approved by the PUC in Order Number
12 23,443 (2000), together with the other charges at issue in this docket. PSNH's tariff
13 indicates that:

14 The Company will provide Collection Services in conjunction with
15 Billing and Payment Service for Suppliers who have entered into a
16 written agreement for such service with the Company for a
17 minimum of one year. The Collection Services provided to
18 Suppliers may be similar to collection activities employed by the
19 Company for its own active and inactive delinquent accounts,
20 except that such collection activities shall not include
21 disconnection of service. Collection Services shall be billed
22 monthly at the following rate:

23 Collection Services Charge 0.252% of total monthly
24 receivable dollars
25

26 PSNH construes the term "total monthly receivable dollars" as all money that is billed to
27 the supplier's customers each month. This means that in any given month, ENH Power
28 must pay PSNH 0.252% of ENH Power's *gross receipts* for supplying electricity to its
29 customers. The Collection Services charge amounts to a tax on competitive suppliers'

1 gross receipts rather than a fee for specific collection costs associated with collection of
2 balances that remain unpaid Past due date. In addition, payment for collection services is
3 required for suppliers which elect to use consolidated billing. Exhibit A at 4.

4 **Q. What service does PSNH purportedly provide with respect to the Collection**
5 **Services Charge?**

6 A. The tariff merely indicates PSNH is providing “Collection Services Charge” to
7 competitive suppliers and their customers. The contract enunciates several steps that
8 PSNH will take regarding collection of payment and allocation of payments between
9 PSNH and the Supplier. Exhibit A at 3-4.

10 Even though the suppliers must pay for collection services, PSNH does not treat
11 the payment of a supplier’s accounts receivable as equal to its own:

12 Payments received shall be applied first to the Company’s accounts
13 receivable until the Company’s accounts receivable are *fully satisfied*.
14 Any remaining payment shall be applied to the Supplier accounts
15 receivable until the Supplier accounts receivable are fully satisfied.
16

17 Exhibit A at 4 (emphasis added). Therefore, any amount owed to PSNH must be paid
18 first, in full, before the supplier is paid anything as a result of collection attempts. It is
19 not clear from the tariff or the contract what steps PSNH will take to collect charges
20 owed directly to the competitive supplier that are any different from actions already
21 undertaken to collect charges owed to PSNH for distribution services.

22 **Q. How much money has ENH Power paid for the Collection Services Charge to**
23 **date?**

24 A. Through March 1, 2013, ENH Power has been invoiced over \$11,000 by PSNH
25 for the Collection Services Charge.

1 **Q. Do other utilities in the State of New Hampshire charge anything akin to a**
2 **Collection Services Charge?**

3 A. No. Neither Liberty Utilities nor Unitil Energy Systems include a collection
4 services charge.

5 **Q. Do utilities in Maine charge anything akin to the Collection Services Charge?**

6 A. No.

7 **Q. Do you have any knowledge regarding how much money it costs to provide**
8 **the collection services provided by PSNH?**

9 A. Yes. According to the documents submitted by PSNH in Docket DR 99-099,
10 PSNH calculated its costs of collection services in 1998 by dividing its monthly
11 collection costs by its monthly receivables. Exhibit B at Attachment GAL/SRH-8, page 3
12 of 5. This calculation raises several issues.

13 First, it appears that PSNH's calculation is based on the cost of all collection
14 activities PSNH conducted in 1998. This necessarily includes collection of PSNH's
15 distribution charges as well as collection of supply charges. To the best of my
16 knowledge, PSNH does not conduct separate collection services for distribution and
17 supply receivables. In effect, PSNH may be charging competitive suppliers for the cost
18 of collection services for its distribution receivables, which it may also recover from its
19 distribution customers. Even if PSNH does not recover its collection costs from its
20 distribution customers, it is unreasonable and inappropriate for competitive suppliers to
21 subsidize collection efforts for PSNH's distribution charges.

22 Second, PSNH's cost analysis is fundamentally flawed. Collection services are
23 not spread equally across all receivables. Many customers pay their bills each month

1 with no action by PSNH beyond sending the monthly bill. PSNH incurs no collection
2 costs for these customers or their receivables, other than the cost of rendering and
3 sending monthly bills. To the extent PSNH performs additional collection services
4 specific to the supply portion of customer accounts that are in arrears, competitive
5 suppliers should pay a collecting service charge that is based on the actual cost of those
6 collection activities. Gross receipts are not reasonably connected to PSNH's actual
7 collection activities or costs.

8 Finally, as a result of PSNH's allocation of customer payments between
9 distribution and supply receivables, PSNH benefits from including competitive supply
10 receivables in its collection activities. For example, when PSNH tells a customer who is
11 in arrears that she owes \$100 (\$50 for distribution charges and \$50 for supply charged),
12 and the customer makes a partial payment, PSNH applies the payment first to the
13 distribution arrearages. This means that PSNH benefits from having a higher total
14 amount due from the customer when the customer chooses to pay only a portion of the
15 amount due. In other words, after charging competitive suppliers a collection service
16 charge, PSNH retains a disproportionate share of partial payments obtained as a result of
17 those collection efforts.

18 The bottom line is that PSNH is effectively profiting from a tax on competitive
19 suppliers' gross receivables in return for performing the exact same collection services it
20 conducts to collect its distribution receivables. This is anti-competitive and
21 unreasonable.

22 **Q. Are you aware of any costs associated with PSNH's collection services that**
23 **are incurred solely for collecting arrearages for competitive supply customers?**

1 A. No. I am unaware of any costs associated with PSNH's collection services that
2 are incurred solely for collecting supplier arrearages. In fact, as described above, PSNH
3 likely benefits from including the supplier's arrearages in its collection efforts.

4 **V. CONCLUSION**

5 **Q. Based on your experience as a competitive supplier in Maine and New
6 Hampshire, do you believe that PSNH's Charges are reasonable?**

7 A. No. The purpose of restructuring in NH was to establish a competitive electricity
8 market, not to create a new profit center for the distribution utilities. PSNH's charges far
9 exceed any possible incremental costs associated with facilitating a competitive supply
10 market. In addition, it appears from PSNH's own filings that PSNH is charging
11 competitive suppliers for costs associated with PSNH's distribution services. To the
12 extent that PSNH is charging competitive suppliers for costs already recovered from its
13 distribution customers, or is charging more than its actual costs of providing services to
14 competitive suppliers, PSNH is unreasonably making a profit on the competitive supply
15 market. This was not the intent of restructuring.

16 **Q. What action is ENH Power seeking from the Commission?**

17 A. ENH Power respectfully suggests that the Commission find that as they currently
18 stand, PSNH's charges are inappropriate and unreasonable, and require PSNH to bear the
19 burden of demonstrating appropriate charges for the services it provides to competitive
20 suppliers. Unless or until PSNH can demonstrate actual incremental costs associated
21 with providing services to competitive suppliers, PSNH's Charges should be suspended
22 indefinitely. In addition, to the extent the Commission finds that PSNH's Charges are
23 unjust or unreasonable, ENH Power respectfully requests that the Commission order

1 PSNH to refund the unreasonable and unjustified PSNH Charges already collected by
2 PSNH.

3 **Q. Does this complete your direct testimony?**

4 A. Yes. However, Electricity N.H., LLC, d/b/a E.N.H. Power reserves the right to
5 supplement this testimony as may be necessary as this proceeding progresses.