

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Public Service of New Hampshire

Investigation into Market Conditions Affecting PSNH and its
Default Service Customers and the Impact of PSNH's Ownership of Generation on the
Competitive Electric Market

Docket No. IR 13-020

OFFICE OF CONSUMER ADVOCATE COMMENTS

NOW COMES, the Office of the Consumer Advocate (OCA), a stakeholder in this docket, and files these Comments on behalf of residential ratepayers. The OCA states as follows:

I. Recommendation

The OCA agrees with the findings in the Report on Investigation into Market Conditions, Default Service Rate, Generation Ownership and Impacts on the Competitive Electricity Market (Staff Report) regarding the low long-term economic viability of Public Service Company of New Hampshire's (PSNH's or the Company's) continued ownership of its fossil fuel generating units. Central to Staff's findings are the high costs to ratepayers of including the wet flue gas desulphurization (Scrubber) project in generation rate base and consequently in Energy Service rates (See DE 11-250 PSNH Investigation of Merrimack Station Scrubber Project and Cost Recovery). The Scrubber costs, along with the reduced use of PSNH generation assets caused by declines in natural gas prices are of significant concern to the OCA. The OCA requests the Commission open an adjudicative docket to address the question: is it in the economic interest of the retail customers of PSNH for the Company to divest its generation assets? This question is implicit in RSA 369-B:3-a (Divestiture Statute) and requires timely attention.

As part of this adjudicative process, the OCA proposes the Commission establish an interim arrangement, described below, that will protect both default Energy Service customers

and PSNH from the effects of increasing migration.

II. Staff Report Overview

On June 7, 2013, the Commission Staff (with Liberty Consulting Group) issued its Staff Report. The PSNH default Energy Service is essentially a regulated-type of generation service supplied by the Company's fleet of generation units, plus market purchases. It is used primarily by residential and small commercial customers. Default Energy Service customers are charged based on traditional cost of service ratemaking. The Staff Report notes that this arrangement produced both stable and reasonably attractive default rates for several years, but that no longer is the case. The Staff Report documents a drastic change in circumstances that led to PSNH's Energy Service rate to become far more costly than energy obtainable from the wholesale market – an over market gap of almost 2 cents per kWh (or nearly 25 percent above market).

The Staff Report states there are two main causes for this reversal. First, the recently completed Scrubber project at the Merrimack plant adds about 1 cent per kWh to the cost of default Energy Service. Second since about 2008-2009, the price of natural gas – a key driver of the cost of electricity generation in New England – has declined dramatically. These two changes made energy produced by PSNH generation units more expensive than what could be purchased in the open market. The price difference spurred competitive energy suppliers to make offers to residential and small commercial customers. In response, residential customers are leaving PSNH in greater numbers than ever before.

The Staff Report finds that the uneconomic position of the Company's existing fleet (i.e., the above-market cost) is more likely to be long-term than temporary. The Staff Report suggests that, if anything, the economics of the legacy generating units will become worse over time. In contrast, PSNH expressed the view that with natural gas prices rising over time and the fuel diversity attributes of its generating units, default Energy Service could remain economically viable. PSNH characterizes its continued ownership of generation as a "hedge" against natural gas price spikes. The Staff Report summarizes the response of all other stakeholders, including the OCA, by stating "the costs to default customers for the 'insurance' provided against gas price spikes exceed their value, and that the issue is in any event more appropriate for treatment at the

regional (ISO) level.” *Staff Report* at 49.

III. OCA Comments on the Staff Report

The OCA supports the threshold finding in the Staff Report that the current Energy Service rate, which provides cost of service rate recovery of PSNH’s generation units, is above market and is not viable in the long run. Absent a dramatic turnaround in the gas commodity market (which is not expected), the fossil fuel units will continue to be above-market, meaning that PSNH’s default Energy Service rate will cost far more than energy service from competitive suppliers. This price disparity likely will drive continued migration of PSNH Energy Service customers to competitive service. As this migration takes place, the above-market cost premium from the legacy units (i.e., mostly the Scrubber) is recovered from a dwindling customer base. This is the classic “death spiral.” This situation requires a fundamental change to the default Energy Service rate structure.

Some argue that customers who remain on PSNH residential Energy Service are “choosing” higher -than -market rates because residential customers now have the opportunity to switch to a competitive supplier. This argument ignores disparities in market knowledge, risk tolerance and economic power between residential and other customers. Many residential customers have entered the market. As of April 2013, approximately 70,000 of PSNH’s 420,000 customers have switched to competitive suppliers. However, if the experience of other states holds true for New Hampshire, even as residential customer migration grows, some residential customers will not switch. This results in the costs of PSNH generating plants being shared among an ever shrinking group of customers. Arguably the Divestiture Statute anticipates a time when economics dictate divestiture. The statute created a “before” and “after” date of April 30, 2006 for divestiture. *Id.* By asking and answering the question implicit in RSA 369-B:3-a, “Is it in the economic interest of the retail customers of PSNH for PSNH to divest its generation assets?” the Commission follows the legislative intent of the Divestiture Statute.

IV. Interim Relief For Energy Service Customers

If the Commission accepts this recommendation to open an adjudicative docket, the OCA recommends the Commission implement an interim solution during the process to provide relief

to default Energy Service customers, most of which are residential customers. Currently, PSNH purchases supplies from the market whenever it is not economic to generate electricity from its own plants. Due to the availability of lower cost generation resources in the region, PSNH's coal, oil, and gas fired plants operate less frequently than in the past, resulting in low capacity factors for most of the fossil fuel plants. See DE 12-116 *PSNH Reconciliation of Energy Service and Stranded Costs*, Testimony of William H. Smagula, Attachment WHS 3 (May 1, 2012) at 123-126. The PSNH plants operating at significantly low capacity factors therefore are not fully "used and useful." See *Appeal of Richards*, 134 N.H. 148 (N.H. 1991) at 160. ("It [ratebase] may only include property that is "used and useful" in the generation of electricity...") Arguably, these over market costs should not be in rates at all.

At this stage the OCA recommends deferring argument regarding over market rate recovery or disallowance until the Commission makes a finding on divestiture. The OCA proposes implementing a market based energy procurement process for PSNH default Energy Service, similar to that currently in place for Unitil and Granite State Electric Company. During the period of transition to a fully competitive market, PSNH would retain the revenue from bidding its generation fleet into the market. This market revenue stream likely will be less than its regulated cost of service. The difference between the market based revenue and the regulated revenue stream becomes a regulatory asset. This deferred asset could become a component of stranded cost to be securitized.

The OCA submits that such a regulatory asset can be created without legislative changes. Once Energy Service customers are protected from the effects of migration, stakeholders can propose solutions to address the findings of the Staff Report with actions which may include:

- 1) Divestiture of PSNH generating units via a third party supervised auction process;
- 2) Identification of necessary legislative changes to implement a long term solution;
- 3) Quantification of recoverable stranded costs; and
- 4) Securitization, with non-bypassable stranded cost recovery for all retail load.

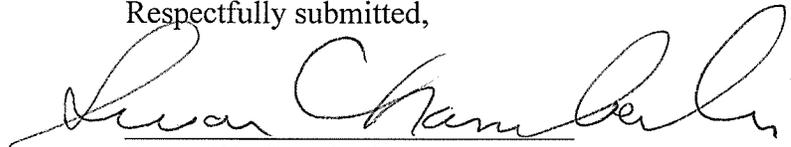
V. Conclusion

The Staff Report correctly determines that there is little long-term economic viability for default Energy Service rates derived from PSNH generating units. The current arrangement

must be replaced as soon as legally and practically possible. To that end, the OCA requests the Commission:

1. Open an adjudicative docket to answer the question, "Is it in the economic interest of PSNH retail customers for PSNH to divest its generation assets?"
2. Establish an interim arrangement that protects both default Energy Service customers and PSNH from the effects of increased migration by implementing a competitive bid process and deferring recovery of any above market costs;
3. Such other relief that is just and reasonable.

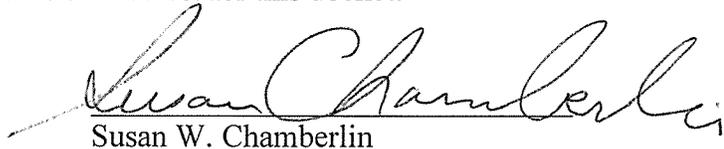
Respectfully submitted,



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Certificate of Service

I hereby certify that copies of these Comments were provided via electronic mail to the individuals included on the Commission's service list for this docket.



Susan W. Chamberlin