STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DOCKET NO. DE 24-070

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE d/b/a EVERSOURCE ENERGY
REQUEST FOR CHANGE IN DISTRIBUTION RATES

DIRECT JOINT TESTIMONY OF

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I. INTRODUCTION AND QUALIFICATIONS

Q. Mr. Dudley, please state your full name and business address.

A. My name is Jay E. Dudley. My business address is 21 South Fruit Street, Suite 10, Concord, NH 03301.

Q. Please state your employer and your position.

A. I am employed by the New Hampshire Department of Energy ("DOE" or the "Department") as a Utility Analyst for the Regulatory Support Division.

Q. Please describe your professional background.

A. I started at the New Hampshire Public Utilities Commission ("Commission" or "PUC") in June of 2015 as a Utility Analyst in the Electric Division. Effective July 1, 2021, the Electric Division was transferred to, and became part of, the newly created New Hampshire Department of Energy and I am presently employed by that agency. Before joining the Commission, I was employed at the Vermont Public Service Board (now known as the Vermont Public Utilities Commission, "VT-PUC") for seven years as a Utility Analyst and Hearing Officer. In that position I was primarily responsible for the analysis of financing and accounting order requests filed by all Vermont utilities, including review of auditor's reports, financial projections, and securities analysis. As Hearing Officer, I managed and adjudicated cases involving a broad range of utility-related issues including rate investigations, construction projects, energy efficiency, consumer complaints, utility finance, condemnations, and telecommunications. Prior to working for the VT-PUC, I worked in the commercial banking sector in Vermont for twenty years where I held various management and administrative positions. My most recent role was as Vice President and Chief Credit Officer for Lyndon Bank in

Lyndonville, Vermont, where I was responsible for directing and administering the analysis and credit risk management of the bank's loan portfolio, including internal loan review, regulatory compliance, audit, and coordinating periodic bank examinations by state and federal regulators.

Q. Please describe your educational background?

A. I received my Bachelor of Arts degree in Political Science from St. Michael's College. Throughout my career in banking, I took advantage of numerous Continuing Professional Education (CPE) opportunities involving college level coursework in the areas of accounting, financial analysis, real estate and banking law, economics, and regulatory compliance. Also, during my tenure with the VT-PUC I took advantage of various CPE opportunities including the Regulatory Studies Program at Michigan State University (sponsored by the National Association of Regulatory Utility Commissioners "NARUC"), Utility Finance & Accounting for Financial Professionals at the Financial Accounting Institute, Standard & Poor's seminars on credit ratings for public utilities, and Scott Hempling seminars on Electric Utility Law and Public Utility Regulation.

Q. Have you previously testified before the Commission?

A. Yes. I previously submitted Staff testimony to the Commission in Docket No. DE 14-238, Public Service Company of New Hampshire Generation Assets; Docket No. DE 15-137, Energy Efficiency Resource Standard; Docket No. DE 16-383, Liberty Utilities Request for Change in Rates; Docket No. DE 17-136, 2018-2020 NH Energy Efficiency Plan; Docket No. DE 19-064, Liberty Utilities Request for Change in Rates; Docket No. DE 19-057 Public Service Company of New Hampshire for Change in Rates; Docket No. DE 20-092, 2021-2023 Triennial Energy Efficiency Plan; Docket No. DE 21-030 Unitil

Energy Systems, Inc. Request for Change in Rates; Docket No. DE 22-026 Unitil Energy Systems, Inc. Petition for Approval of Step Adjustment Filing; Docket No. DE 20-161 Eversource 2020 Least Cost Integrated Resource Plan; Docket No. DE 21-004 Liberty 2021 Least Cost Integrated Resource Plan; Docket No. DE 23-068, 2024-2026 Triennial Energy Efficiency Plan; Docket No. DE 23-065 Unitil Petition for Waiver of Puc 307.05 and Authority to Change Short-term Debt Limit Formula; and Docket No. DE 23-039 Liberty Utilities (Granite State Electric) Corp d/b/a Liberty Request for Change in Distribution Rates.

Q. Mr. Willoughby, please state your full name and business address.

A. My name is Ronald D. Willoughby. My business address is 1007 Wolfs Bane Drive, Apex, NC 27539.

Q. Please state your employer and your position.

A. I am employed by Willoughby Consulting as its Owner. I am performing this engagement as an engineering consultant for the New Hampshire Department of Energy.

Q. Are you registered as a Professional Engineer?

A. Yes, I hold a license as a Professional Engineer in Pennsylvania.

Q. Do you hold any patents in power engineering?

A. Yes, I hold a U.S. Software Patent for improving the reliability of electrical distribution networks.

Q. Please summarize your educational and professional background.

A. I received a Bachelor of Science in Electrical Engineering from the University of Missouri-Rolla and a Master of Science in Electrical Engineering (Power Engineering) from Carnegie-Mellon University, and an Honorary Professional Degree of Electrical Engineering from the University of Missouri-Rolla.

Q. Have you included a more detailed description of your qualifications?

A. For additional details on my background and experience see Attachments RDW-1 and RDW-2.

Q. Have you previously testified before the Commission?

A. Yes. I have previously submitted testimony on behalf of the Department in Docket No. DE 20-161 Eversource 2020 Least Cost Integrated Resource Plan, Docket No. DE 21-004 Liberty 2021 Least Cost Integrated Resource Plan, Docket No. DE 23-039 Liberty Utilities (Granite State Electric) Corp d/b/a Liberty Request for Change in Distribution Rates, and Docket No. DE 24-041 Public Service Company of New Hampshire d/b/a Eversource Energy Petition for Review of Storm Expenses.

Q. Mr. DeVirgilio, please state your full name and business address.

A. My name is Joseph J. DeVirgilio, Jr. My business address is 201 Vicenza Way, North Venice, FL 34275.

Q. Please state your employer and your position.

A. I am employed by Suncoast Management Consultants, LLC as its Owner. I am performing this engagement as a subcontractor for Willoughby Consulting.

Q. Are you registered as a Professional Engineer?

A. Yes, I hold an inactive license as a Professional Engineer in New York.

Q. Please summarize your educational and professional background.

A. I received a Bachelor of Engineering from Stevens Institute of Technology and a Master of Engineering in Electrical Power Engineering from Rensselaer Polytechnic Institute (RPI).

Q. Have you included a more detailed description of your qualifications?

A. For additional details on my background and experience see Attachment JJD-1.

Q. Have you previously testified before this Commission or any other Commission?

A. Yes. I have previously submitted testimony in Docket No. DE 20-161 Eversource 2020 Least Cost Integrated Resource Plan, DE 21-004 Liberty 2021 Least Cost Integrated Resource Plan, Docket No. DE 23-039 Liberty Utilities (Granite State Electric) Corp d/b/a Liberty Request for Change in Distribution Rates, and Docket No. DE 24-041 Public Service Company of New Hampshire d/b/a Eversource Energy Petition for Review of Storm Expenses. I have also testified before the New York State Public Service Commission as an executive for Central Hudson Gas & Electric Corporation in a rate case proceeding involving gas employee staffing and productivity.

II. SUMMARY OF TESTIMONY

Q. Please describe the purpose of your testimony today.

A. The purpose of our testimony is to provide the Department's recommendations involving Public Service Company of New Hampshire d/b/a Eversource Energy's ("PSNH" or the "Company") request for approval of its capital expenditures, vegetation management program, and major storm costs as part of the Company's request filed on June 11, 2024, to implement a permanent distribution rate increase to be effective on and after August 1, 2024, pending final determination by the Commission. Based on the reports of the Company filed with the Commission, and DOE's extensive review of PSNH's revenue requirement, rate of return, capital expenditures, and overall quality of management, the Department believes that a number of adjustments are warranted to the PSNH permanent rate proposal. The Department recommends that the Commission make the following modifications:

• PSNH's proposed revenue requirement:	$177,745,424[1]
• DOE's reduction to revenue requirement:	($ 95,547,728)
Adjusted revenue requirement	$ 82,197,706
• PSNH's proposed rate base:	$1,854,152,033
• DOE's reduction to rate base:	($ 53,761,947)
Adjusted rate base:	$1,800,390,086
• PSNH's Proposed ROE:	10.3%
• DOE's reduction to ROE:	(0.08%)
Adjusted ROE:	9.5 %

In addition, the Department also recommends denial of PSNH's proposed performance based ratemaking plan (PBR) and related performance incentive mechanisms which are discussed in detail in the direct testimony of DOE witnesses Nicholas Crowley and Daniel McLeod. The Department also opposes the Company's request to include its 2024 capital investments as part of the proposed rate increase in this case to take effect August 1, 2025, and recommends that they instead file the request as part of a step adjustment. If the Commission agrees and allows a 2025 step increase, then the Department recommends that the Commission open a separate docket for the purposes of investigating those capital investments (after this case concludes), including a prudence review of individual capital projects that comprise PSNH's 2025 step increase request. Further, as discussed below, the

[1] PSNH's Updated Revenue Requirements dated December 17, 2024, Attachment DHM-3.

Department has become increasingly concerned with PSNH's apparent lack of diligence and due care in planning, conducting and managing some of its capital investments efficiently and prudently. As noted below, a business process audit of PSNH's capital expenditure planning and management was mandated by the Commission in PSNH's last rate case in Docket DE 19-057 and it is not clear to the Department that all of the recommendations from the audit have been sufficiently adopted by the Company.

III. DISCUSSION OF PERMANENT RATE REQUEST AND THE DEPARTMENT'S REVIEW

Q. What is the statutory foundation for a request for permanent rates?

A. Permanent rates are specifically allowed pursuant to RSA 378:28 which reads as follows:

> **378:28 Permanent Rates. –** So far as possible, the provisions of RSA 378:27 shall be applied by the commission in fixing and determining permanent rates, as well as temporary rates. The commission shall not include in permanent rates any return on any plant, equipment, or capital improvement which has not first been found by the commission to be prudent, used, and useful. Nothing contained in this section shall preclude the commission from receiving and considering any evidence which may be pertinent and material to the determination of a just and reasonable rate base and a just and reasonable rate of return thereon.

Following the completion of the full proceeding, a "permanent rate" level is determined, and the difference between the temporary rate level and the permanent rate level is then reconciled through either collection from or refund to customers.

Q. Please describe PSNH's request for the permanent increase in rates.

A. According to PSNH, the Company has been unable to earn its authorized rate of return under existing rates because of a deficiency in distribution revenue of $182 million as of fiscal year-end 2023 (later adjusted to $178 million[2]). As a result, PSNH's return on rate base for 2023, related to the distribution portion of the business, declined to 6.5% as compared with the Company's authorized return of 9.3%. PSNH originally sought recovery of the $182 million revenue deficiency in permanent rates; however, to allow the Company to earn at least a portion of its authorized return until the Commission makes its final determination on permanent rates, the Company proposed a temporary rate increase of approximately 5.04%, or $77 million in additional distribution revenue.[3] After hearing and review, the Commission approved an agreement between PSNH, the Department, and the Office of Consumer Advocate ("OCA") for a temporary rate increase of $61.2 million (the "July Order") or 5.27%.[4] In terms of the permanent rate request, the permanent rate amount constitutes an annual increase to the total bill for the average residential ratepayer (600 kWh) of $21.53 or 16.78% per month as of August 1, 2024.[5] In addition, PSNH has proposed performance based ratemaking (PBR) metrics within a PBR Plan allowing for annual rate increases over four years beginning in 2025, intended to recover annual revenue requirements of approximately $601million in 2025, $652 million in 2026, $681 million in 2027, and $713 million in 2028.[6] The Company is requesting that the Commission make the rate increases under the PBR Plan effective on August 1 of each of those years.[7]

[2] *See* PSNH's December 17, 2024, Updated Revenue Requirements, Schedule ES-REVREQ-1.
[3] Testimony of Botelho and Chen (Temp) at Bates 1465-1470.
[4] Order No. 27,041, Docket No. DE 24-070, dated July 31, 2024.
[5] Testimony of Davis at Bates 19598 and Attachment ES-EAD-14 at Bates 19710.
[6] Testimony of Foley/Coates/Horton, Attachment ES-DPH-1 at Bates 1434.
[7] *Id*.

Q. As part of this rate case, did the Audit Division complete a financial audit of PSNH's books and records?

A. Yes. A copy of the audit report prepared by Audit Staff was provided to the Department on January 31, 2025, and is attached to our testimony as Attachment JED/RDW/JJD-1 Audit Report.

Q. Are you aware of any deficiencies discovered by Audit Staff during the course of the audit process, and if so, please describe how those problems relate specifically to issues raised in your testimony?

A. Yes. Audit Issue #3 involves the excessive charging by PSNH of indirect/overhead costs to all capital projects. Audit reviewed several plant additions between 2019 and 2023 and found that some overhead costs exceeded 35% of the project budget and that indirect costs were a significant portion of additional costs relative to direct costs.[8] Audit's ultimate recommendation was that PSNH should improve its efforts at cost control and try to keep indirect/overhead costs below the 35% level. The Company recently began the practice of including indirect costs as part of its budgeting for projects and includes them in the financial analysis section of the Project Authorization Forms. The Department has been concerned about this practice for several years. After extensive reviews of capital projects over the last two step adjustments and including the current rate case, the Department noticed that indirect costs are frequently under-estimated by the planners and are later escalated as the project progresses to completion resulting in supplemental funding requests to cover the increased costs. In many cases, the Department found that most of the cost overruns for certain projects are directly related to substantial increases in the indirect rates billed to the project. The Department has inquired with PSNH at various technical sessions as to the root causes for these increases in the indirect rates billed to the projects but has never received a satisfactory answer. As a result, and due to the findings of the Audit Report, the Department recommends that the Commission authorize an in-depth audit by the Audit Division targeting the Company's indirect rate allocation process and the how the rates are calculated to determine whether or not the process is accurate and comparable to processes utilized by other similarly situated utilities.

Q. Is the Department proposing a decrease to PSNH's revenue requirements in this proceeding?

A. Yes. As noted above, please refer to the testimony of Ms. Mullinax in which she provides detailed support for the Department's recommended revenue requirement of $82.2 million which is $95.5 million less than PSNH's revenue requirement as contained in its updated request filed on December 17, 2024. Our testimony below addresses adjustments to the Company's rate base.

Q. In terms of PSNH's capital investments, does the Department believe that its recommendations for disallowances in this case will provide just and reasonable results?

A. Yes. A key element of the just and reasonable standard, coupled with the statutory requirement that a utility's capital investments must be found to have been prudently incurred, and used and useful, is that the Commission must weigh the conflicting interests of both the utility and the ratepayer before finding the proposed rate is just and reasonable. In doing so, the Commission must measure what the public must reasonably pay against what the utility is reasonably entitled to receive. In the present docket,

[8] *See* Attachment JED/RDW/JJD-1 Audit Report at 166-167.

Department's analysis indicates that PSNH overstated its revenue requirement by $95.5 million. To allow such a revenue requirement into rates would be unjust for PSNH's ratepayers since it would not result in just and reasonable rates. In addition, the Commission's statutory requirement to determine whether a utility's investments are prudent, also rests on the just and reasonable standard such that imprudent expenditures are inconsistent with the standard and should be disallowed. As a result, the Department has found that approximately $53.8 million in capital investments were not adequately explained or justified by the Company and that ratepayers should not be required to pay those costs.

IV. PSNH'S CAPITAL EXPENDITURES

Q. What explanation does the Company provide for the claimed downward pressure on its rates of return?

A. PSNH testifies that the primary driver behind the need for an increase in rates is approximately $275 million in unrecovered capital investments made by the Company since its last rate case in 2019, Docket No. DE 19-057.[9] Overall rate base growth, including step adjustments recovered in 2019, 2020, and 2021, was 686 million.[10] PSNH forecasts that its post-test year capital spending over the next four years will continue to be at a high level totaling approximately $1 billion by the end of the proposed PBR period in 2028.[11] As in past rate cases, the Department remains concerned about this substantial growth in capital investments by PSNH.

[9] Testimony of Botelho/Chen at Bates 1609. Note: Total actual expenditures for this time period were $475 million, however, $200 million were recovered through three step adjustments in years 2020, 2021, and 2022.
[10] Testimony of Landry, Devereaux, and Dickie at Bates 2313.
[11] Testimony of Foley, Coates, Horton, Attachment ES-DPH-1 at Bates 1436.

Q. Why are PSNH's capital investments under the Department's review in this rate case?

A. First, regulated electric utilities are some of the most capital-intensive entities that exist given the substantial amount of capital investment that is required to build and maintain reliable infrastructure. As a result, the significant and ongoing nature of those investments are frequently the primary causes for utilities to request periodic increases in rates. However, unlike unregulated competitive firms, regulated utilities, because they are regulated, cannot just pursue any investment strategies available that maximize shareholder value. Regulators must find that such expenditures are prudent, just and reasonable, and used and useful. As cited above, PSNH's primary justification for the current rate increase request is the downward pressure additional capital expenditures have placed on the Company's revenues and rates of return.

Second, during the course of PUC Staff 's (now DOE) review in PSNH's prior rate case, Docket DE 19-057, Staff found disparities between budgeted amounts and actual expenditures reported by the Company to be both numerous and significant in size, raising questions as to whether the Company was sufficiently diligent in its budgeting, project management, and cost control. Given the significant number of variances observed in that rate case, which in some instances increased originally budgeted costs several times over, and given that PSNH provided little in the way of specific information as to root causes or how the Company decided that those overages were economic, PUC Staff was unable to determine that PSNH took appropriate measures to control costs or that the Company's decision-making process was prudent and reasonable or in the interest of ratepayers.[12] As a result, PUC Staff recommended a total disallowance in the amount of $63 million related to imprudent capital expenditures found in DE 19-057. Although those issues were ultimately resolved through a Settlement Agreement that the Commission approved, one of the conditions of that Settlement was that a business process audit (BPA) would be conducted, under PUC Staff's oversight, to review and assess PSNH's capital planning, budgeting, management of its capital expenditures.[13] River Consulting Group was selected by PUC Staff to perform the audit and the process of conducting the BPA was completed on November 30, 2022, at which time PSNH was provided with a copy of the report. The final audit report was filed with the Commission on August 11, 2023.[14]

Q. Did the findings and the recommendations of the final BPA Report result in any noticeable improvements by PSNH to its capital budgeting, planning, and implementation process?

A. Yes, in part. On the surface, PSNH has represented that it has adopted or is in the process of adopting most of the BPA recommendations;[15] however, the Company's commitment and effective implementation remains in question. The BPA was extensive and took approximately eleven months to complete. In all, the BPA provided twenty-five recommendations for improvement by the Company in the areas of documentation, capital planning, and communication. In the current rate case and the Company's 2021 step adjustment proceedings, the Department did notice some design and formatting improvements had been made to the Company's Project Authorization Forms (PAF) in

[12] *See* Docket No. DE 19-057, Exhibit 32, Testimony of Jay E. Dudley at Bates 10, 14, 43-44; and Exhibit 56, Updated Testimony of Jay E. Dudley at Bates 12-16 and 59-61.
[13] *Id.* Exhibit 58 at Bates 7 and 46-47.
[14] *Id.* Tab 272.

terms of more content and analysis involving such areas as project alternatives and risk mitigation. The Company also provided more clarity to the use of the term "Supplemental" funding requests, and also for "pre-construction estimates" and "full funding authorizations." The Department also noticed improvements made to the capital planning and review process which appeared to include enhanced peer review of projects through the creation of the Asset Management group, Systems Planning group, the Solutions Design Committee, the NH Project Approval Committee, and monthly meetings of the Capital Budget Review Committee. However, based upon deficiencies found with certain projects reviewed in this rate case, as outlined below, it is not clear to the Department this new multi-layered peer review process has been all that effective since legacy problems with cost control and project scoping continue to persist. In particular, significant escalation in indirect expense rates continues to be the main driver behind most cost overruns for projects requiring supplemental funding, and project planners continue to underestimate those rates in budget formulation. Moreover, those escalations appear to pass through the supplemental review process with little or no scrutiny which runs contrary to the intent of the process.

In addition, PSNH has yet to fully embrace the need for clearer communications. For example, the rate case filing and discovery process produced several large PDF files from the Company that were copious and not indexed, making them difficult and time-consuming to use. The single PDF file attached to the Landry, Devereaux, Dickie testimony as Attachment ES-ADDITIONS contains approximately 16,500 pages with no index. Moreover, in terms of project documentation, compliance with the new information requirements of the revised PAF's have been spotty and inconsistent, and

[15] Testimony of Landry, Devereaux, and Dickie at Bates 2308.

largely dependent upon the type of projects being proposed. For example, most annual blanket projects receive only cursory analysis that is limited to historical trends. As a result, the Department believes PSNH's Regulatory Affairs organization has yet to fully embrace the role of "gate keeper" to ensure materials/data submitted to the Department (and others) meet an appropriate level of clarity, quality, and ease of use. Another problem area which has shown little tangible improvement involves PSNH providing timely responses to the DOE's data requests and communicating delays to the Department. The Company's performance in this area in terms of the current rate case remains problematic and an ongoing concern for the Department.

Lastly, the Department has good cause to believe that PSNH's compliance efforts may lack the level of seriousness and commitment that is necessary for the audit recommendations to be properly assimilated within the organization in order to be effective. That belief is based on two letters filed by the Company with the Commission in Docket No. DE 19-057: 1) a letter filed August 31, 2023, that characterized the audit report as "prejudicial" and "biased" and stating "Without transparency and accuracy, the Company cannot accept the document filed by DOE as having any validity…",[16] and 2) a letter filed by PSNH with the Commission on August 31, 2023, that continues with the same theme stating "the Company's acceptance of the August BPA Report should not be construed as a deviation from the Company's positions set forth in its May 31, 2023 compliance filing" and "the lack of transparency surrounding development of the BPA Report has never been resolved and has undermined the integrity of the audit process and

[16] *See* Docket No. DE 19-057, Tab 263, Eversource Energy Comments in Response of Draft Audit Report, at 2 and 4.

the work product emerging from the BPA process."[17] For the Department, such comments indicate reluctance on the part of the Company to fully embrace the findings and recommendations of the report and do not engender a high degree of confidence that the Company will undertake a good faith effort in implementing those recommendations.

Q. What internal documentation from PSNH did the Department examine as part of its review?

A. As noted above, the testimony of PSNH witnesses Landry, Deveraux and Dickie included 16,558 pages of attachments which included the following documents involving project information for the years 2019 through 2023:

a. Complete listings by year for all projects (except certain step adjustment projects.
b. Project Authorization Forms.
c. Supplement Funding Requests.
d. Work Order Close-out Reports.
e. APS-1 Project Authorization Policy
f. Delegation of Authority Policy

From this information, the Department developed a sample list of projects that were reviewed, resulting in the proposed disallowances discussed in part V of this testimony.

Q. Did PSNH provide all of the internal documentation requested?

A. Not consistently. As discussed below, not all of the requested documentation was submitted or made available by Eversource. In addition, the Department's timely review of some projects was hampered by the Company's delay and intermittent submission of additional follow-up responses to requests made at various technical sessions held in this

[17] *Id.*, Tab 274, Eversource Energy Business Process Audit Report Status Update, at 1 and 2.

proceeding. For example, a critical piece of information involving the Nashua Front Office Project contained in PSNH's response to DOE Data Request TS3-004 SP1 was not provided until Close of Business on January 24, 2025, the initial due date for parties' testimony in this rate case.

Q. What issues did the Department discover in its review of PSNH's capital budgeting?

A. The Department found some improvement in that the cost estimates contained in the capital budgets were more accurate than in past filings and that many projects had come in underbudget. The DOE also found some cases where the revised budget information contained in the Supplement Funding Requests were informative and helpful for the Department's review.[18] Unfortunately, certain negative characteristics discovered in the Company's last rate case such as lack of accurate budget forecasts for large projects and blanket projects, as well as an apparent lack of cost containment and controls, and observance of least cost planning, appeared to have continued despite the Company's experience with the BPA process discussed above. Although PSNH asserts that management has enhanced its level of oversight and scrutiny through the involvement of various review and approval committees,[19] the Department found little evidence that those efforts have been effective for most of the larger-budget projects reviewed in the sample below.

[18] Although the Department understands that base budgets are intended by PSNH to be formulative, and the supplements to be enhancements, DOE believes that budgets can and should be kept within a range of reasonableness and accuracy given that PSNH has extensive experience with many types of projects that are functionally similar to one another.
[19] Testimony of Landry, Deveraux and Dickie at Bates 2299 -2307.

V. FINDINGS: REVIEW OF CAPITAL PROJECTS SAMPLE 2019 THROUGH 2023

Q. What specific capital projects did the Department include in its examination?

A. As noted above, the Department compiled its initial sample list, attached as Attachment JED/RDW/JJD-2, which involved projects experiencing cost over runs and other projects of interest for 2019, 2020, 2021, 2022, and 2023, from the project listings attached to the Testimony of Landry, Deveraux and Dickie, Attachments ES-ADDITIONS-1 through ES-ADDITIONS-2(f). As mentioned previously, all of the internal documentation obtained from Liberty, was reviewed by the Department in connection with each of these projects. It is important to note that most of the projects included in PSNH's previous three step adjustments (2019, 2020, and 2021) were not included in these lists, however, DOE did find exceptions which are noted below. Based on information received from the Company during the course of additional discovery and technical sessions in this proceeding, the Department was able to condense the list from Attachment JED/RDW/JJD-2 into four categories as follows: Reimbursable Projects, Incomplete Projects, Step Adjustment Projects, and Permanent Disallowances. Information and the DOE's analysis on those different categories of projects are provided below:

Table 1: Reimbursable Projects

Project No.	Description	Type	Total Plant in Service*
DG9R	DG Field Design & Const.	PV	$160,398
A22N30	Gillford Comcast Billable	Cable	$ 23,842
A23N04	Comcast Belmont	Cable	$ 78,576
A21N33	Laconia Comcast Billable	Cable	$140,699
PW9R	Private Work-NH	Other	$532,123
A21S30	NHDOT PROJ 1306-365	Other	$109,790
Total			$1,045,428

*Includes carryover amounts.

Q. Please provide the results of the Department's review of projects subject to reimbursement.

A. The PAF's for each of the projects listed above describe these projects as "Reimbursable" or "100% reimbursable" from either the customer or another utility.[20] Upon review, the Department discovered that PSNH booked capital expenditures for these projects to its rate base despite the fact that such expenditures were reimbursable. As such, the plant in service amounts represented above were included as part of the Company's 2023 test year rate base and eligible to earn PSNH's return on assets, even though those balances presumably would be reduced to $0 once reimbursement was made. The Company argues that it is appropriate to include these projects for recovery until reimbursement is made because they are considered by PSNH to be complete and "used and useful."[21] However, adding to the lack of clarity, PSNH designated some of these projects as "Multi-year project not yet complete," indicating the project is ongoing and may not have been completed in 2023 (see discussion below).[22] PSNH has asserted in technical sessions that reimbursements do not always align when capital costs are placed in service year to year. Nevertheless, these projects were added to the 2023 test year rate base for recovery in this rate case and thus overstate the Company's rate base by $1.05 million and should be removed.

[20] The PAF's for each of these projects are provided in Attachment JED/RDW/JJD-3 Reimbursable Projects.

[21] *See* Attachment JED/RDW/JJD-4 Data Responses DOE 10-199, DOE 10-200, DOE 10-201, and DOE 10-26.

[22] *Id.* Data Response DOE 10-201.

Q. What is the Department's recommendation for how the Commission should treat these projects in this rate case?

A. Based on the most recent information available to the Department, these projects are still awaiting reimbursement and may not be complete and used and useful. It is the Department's view that such projects must be treated in a similar manner to those involving contributions in aid of construction (CIAC) and should not be included in rate base. Since customers pay for and acquire ownership of these investments, PSNH bears no capital cost for these assets and is not allowed to include them for earning their return, taking depreciation, or including them for cost recovery as a part of rate making purposes. As a result, the Commission should order PSNH to exclude the above listed investments in the total amount of $1.05 million from the 2013 test year rate base, not only for the purposes of this rate case, but also for the Company's future accounting treatment of reimbursable projects.

Q. Did PSNH voluntarily remove some reimbursable projects from its test year rate base?

A. Yes. As a part of technical session discussions and discovery, and PSNH's updated revenue requirement, the Company agreed to remove certain Distributed Generation (DG) related projects from inclusion in rate base.[23] Pursuant to RSA 362-A:9, XIII, all capital costs associated with the interconnection of DG projects to a utility's distribution system are the responsibility of the DG developers/owners and not the

[23] *See* Attachment JED/RDW/JJD-5 PV Projects.

utility.[24] Those projects that PSNH agreed to remove from the 2023 test year rate base are listed below:

Project No.	Description	Type	2023 Plant in Service
A21N88	Loudon Pleasant St PV	PV	$ 56,670
A21S89	Nashua Pennichuck PV	PV	$ (954)
A21X18	SCADA Reclosers DG	PV	$291,929
DSPP8001	Distributed Gen Annual	PV	$(12,157)
A21C52	Manchester Landfill PV	PV	$ (89,291)
A21N90	Conway Lake PV	PV	$ (25,917)
A22W32	Keene WWTF PV	PV	$ 28,266
Total			$248,546

Table 2: Incomplete Multi-year Projects

Project No.	Description	Budget	Actual Spend	2023 Plant in Service*
A19S40	Amherst S/S P&C Upgrades	$6,662,000	$4,913,815	$4,723,194
A20X21	Distribution Mangmnt System	$9,290,000	$7,689,813	$7,689,813
A20W18	3410 317 Reconstruction Phase 1	$2,615,000	$1,312,979	$1,217,269
A22W20	42X3/44H1 Extend 34.5kV	$2,685,000	$ 896,848	$ 151,102
A21C20	322X14 Circuit Offload	$ 141,000	$ 31,219	$ 21,687
A23W55	SMART Inspect Reliability	$10,830,000	$ 7,535,112	$7,344,708
A22W26	317/3410 Recon Roby Rd	$ 6,449,000	$ 4,199,891	$2,112,059
A23CCI	CCI Reject Pole Replacement	$ 7,348,000	$ 2,897,294	$1,481,864
23707	PSNH D Electric Building	$ 4,370,180	$ 1,212,625	$1,033,235
A22C83	Manchester Network Cable	$ 1,583,000	$ 1,260,090	$ 966,438
ML2304	2023 PSNH D ML	$ 675,000	$ 511,762	$ 499,527
NHENGCOM	Field Engineer Field Com	$ 807,924	$ 289,978	$ 289,978
A22E43	Great East Lake Pole Replacement	$ 434,000	$ 263,758	$ 210,577
A23W17	42X3-316X1 Circuit Tie	$ 3,461,000	$ 2,499,142	$ 8,810
A23C60	SMART Inspect Reliability Central	$ 2,227,000	$ 451,450	$ 6,359
A21X84	RF Site Alarm & Monitoring	$ 2,696,000	$ 776,626	$ 101,466
Total		$63,456,328	$37,663,533	$27,858,763

*Includes Carryover amounts from 2022.

[24] Also see Puc 903.01(n): A customer-generator shall be responsible for all costs associated with interconnection of the customer-generator's facility to the distribution system, as provided under RSA 362-A:9, XIII.

Q. Please provide the results of the Department's review of incomplete multi-year projects.

A. In reviewing the project lists contained in Attachments ES-ADDITIONS-1 through ES-ADDITIONS-2(f) of the Testimony of Landry, Deveraux and Dickie, the Department noticed that some of the lists contained a column marked "Col. O" that provided the "Variance Rationale for Projects" that varied by 20% either over or under the original authorized budget amounts. All of the projects listed in Table 2 above are similar in that they each have the same variance designation "Multi-year project not yet complete. Amount shown on life to date costs through 12/31/23," under Column O, indicating to the Department that those projects were ongoing and not yet complete and used and useful. A condensed list compiled from the PSNH attachments containing the complete entries for those projects is attached to our testimony as Attachment JED/RDW/JJD-6 Multi-year Projects. The Department also reviewed the related PAF's and found that most did not provide any discussion or description of the multi-year nature of the projects. Nearly all of the PAF's reviewed provided an estimated in-service date occurring within the same year as the project year, for example a PAF dated for project year 2022 typically provided a future estimated in-service date of 2022. Also, the Department noticed disparities for most of the projects between the current amounts of expenditure and the amounts actually booked to the 2023 test year plant, i.e. current expenditures are higher than what was included in the 2023 test year rate base, in some cases significantly, providing additional indication that these projects were not yet complete and confirming the multi-year variance rationale assigned by the Company.

As a general accounting matter, capital projects may not be moved from Construction Work in Progress (CWIP) to plant-in-service until those projects, as a whole, are complete, used and useful, and in service. The Department's view is that this requirement applies regardless of whether certain components or elements of a given project have been completed and placed in service. In other words, the Department has always taken a holistic approach to capital project review. The Department believes that this view is supported by statute in that RSA 378:30a. states: "Public Utility rates or charges shall not in any manner be based on the cost of construction work in progress. At no time shall any rates or charges be based upon any costs associated with construction work if said construction work is not completed. All costs of construction work in progress, including, but not limited to, any costs associated with constructing, owning, maintaining or financing construction work in progress, shall not be included in a utility's rate base nor be allowed as an expense for rate making purposes until, and not before, said construction project is actually providing service consumers." A recent case in point involved the audit of the Company's 2021 step adjustment by DOE's Audit Division where it was discovered that two projects, Hookset-1250 LED Lighting and 55 W. Brook LED Lighting, were "not fully in service" thus overstating the Company's 2021 plant-in-service by $472,856. As a result, Audit required that those projects be removed from the 2021 step adjustment rate base.[25]

In terms of the current rate case, the Department sought additional clarification from the Company through discovery about the multi-year nature of the projects in Table 2 and the justification for including them in the 2023 test year rate base (PSNH's responses are

[25] *See* Docket No. DE 22-030, Tab 16, New Hampshire Department of Energy Final Audit Report, Audit Issue No. 2 at 10-12 and 42-43.

included in Attachment JED/RDW/JJD-7). The Department found PSNH's responses to be confusing and unpersuasive given the large differences between actual expenditure amounts and 2023 plant-in-service amounts, coupled with the Company's assertion that some of these projects were "mistakenly labeled" as "multi-year" and "incomplete." However, the Department did find some information helpful in that the Company was able to identify and confirm some projects that were completed in the 2023 test year that should not have been categorized as multi-year, but that others still had outstanding work orders into 2024.[26] Nevertheless, many other projects, as represented in Table 2 above, appear to be continuing to accrue expenditures past 2023 indicating outstanding work orders still in need of completion.

Q. What is the Department's recommendation for how the Commission should treat these projects in this rate case?

A. It is apparent the projects listed in Table 2 are not entirely complete since they continue to incur charges against work orders after the 2023 test year given the disclosures made by PSNH in discovery and the disparity between actual expenditure amounts and the lesser amounts booked to plant-in-service. The continued accrual of expenses for a project is insufficient to justify inclusion in rate base. As stated above, the Department takes a holistic approach to capital project review and given the requirements of RSA 378:a. does not accept the Company's argument that it is appropriate to book certain components or portions of a project to test year rate base once those parts are deemed by PSNH to be complete and used and useful.[27] To accept such a proposition not only runs contrary to the intent of RSA 378:a, it would make used and useful and prudence reviews

[26] *See* Attachment JED/RDW/JJD-7, Data Response DOE 14-265.
[27] *See* Attachment JED/RDW/JJD-7, Data Response DOE 13-239 b.

too onerous to implement since the Department would have to break down a project into all of its many separate components and attempt to determine not only the prudence of each component but also confirm the completion and in-service date of each component. In other words, since each incremental addition implies some amount of benefit to ratepayers, the Department (and the Commission) would be burdened with parsing out, reviewing, and confirming the benefit of each addition. Such an approach is impracticable and runs contrary to the Department's long held understanding of the used and useful standard; i.e. even if capital has been prudently invested, but has not resulted in a finished asset that is a used and useful investment in public service, such capital expenditures must be excluded from rate base. Therefore, the Department recommends that the incomplete, multi-year projects listed in Table 2 in the total approximate amount of $28.7 million be removed from the 2023 test year rate base and deferred for recovery until the Company's next rate case at which time the Department will be in a better position to determine whether or not the projects are in fact entirely complete, used and useful, and providing service.

Q. Why is the Department recommending deferral instead of permanent disallowance for these projects?

A. As stated above, the Department does not question the need or appropriateness of the projects themselves, although the Department reserves the right to review the prudence of each of these projects in a future rate case. At issue for the Department is the unfair and unreasonable over-statement of the 2023 test year rate base that would result by including incomplete projects in rate base that do not conform with the used and useful standard. PSNH itself has identified most of the projects as "Multi-year projects not yet complete."

The reasonable solution to this problem would have been for the Company to defer recovery on the projects, as it did with some of the step adjustment projects discussed below, until the next rate case. Therefore, the Department is recommending deferral, with the opportunity for prudence review when recovery by PSNH is sought, instead of permanent disallowance.

Table 3: 2021 Step Adjustment Projects

Project No.	Description	2021 Step Adj. Plant-in-Service[28]	2022-2023 Addl Plant
A20C24	Install Step Trans Rte 13 Goffs	$ 780,149	$ 65,898*
A14W01	Emerald Street Substation	$19,535,961	$ 23,106*
21772	PSNH-D LED Lighting Replace	$ 79,736	$ 20,948*
A20C23	335X1 Extend 19.9 kV To Bow	$ 213,307	$ 47,507*
A20C40	Manchester Network Cable	$ 1,312,473	$ 388,870
A21LS	Distribution Auto Line Sensor	$ 283,543	$ 140,516
A21N32	Laconia Comcast Nonbillable	$ 105,702	$ 176,525
A21N34	Gilford Comcast Nonbillable	$ 142,978	$ 297,779
NHEDVH20	NH Elect Dist Vehicle Purchase	$ 256,464	$ 5,426*
NHEDVH21	NH Elect Dist Vehicle Purchase	$ 6,620,817	$ 26,087*
NHTRN21	NH Training Annual Capital Project	$ 9,004	$ 53,221
20755	Bow Mobile Substation	$ 678,645	$ 69,098*
A17E01	Rye Area 4kV Study	$ (1,737)	$ 44,171*
20715	PSNH-D ML 2020 LOB	$ 111,577	$ 26,105*
A19W56	317 Line Construction	$ 969,489**	$ 158,489
A17E09	Rochester 4kV Conversion	$ 1,178,012	$1,874,861
A20N15	Circuit Tie 43W1	$ 1,679,659	$ 216,578
Total		**$33,955,779**	**$3,635,185**

*No PAF's were provided by PSNH for these projects.
**Amount approved in 2020 step adjustment.

[28] The project list for the 2021 step adjustment can be found in Docket No. DE 22-030, Exhibit 1, Testimony of Russel D. Johnson, D. Plante, and J. Devereaux, Attachment RDJ/DLP/JJD-1.

Q. Please provide the results of the Department's review of incomplete multi-year projects.

A. As noted above the Department devoted a lot of time to reviewing the project lists contained in Attachments ES-ADDITIONS-1 through ES-ADDITIONS-2(f) of the Testimony of Landry, Deveraux and Dickie. We also compared those lists to lists submitted by the Company for each of its last three step adjustments in DE 19-057 and DE 22-030. Through that comparison, the Department noticed many projects that PSNH had previously represented in its step adjustment filings as complete and in service, in particular the filing for the third step adjustment in DE 22-030, re-appeared for inclusion and recovery in the 2023 test year rate base. Those projects are identified in Table 3 above. In the ES-ADDITIONS attachments, most of these projects were designated by the Company as "Carryover" or "Multi-year" indicating the recurring nature of the projects despite the fact that they were booked to plant as complete and in service three years ago. The Department inquired about PSNH's treatment of these projects in data request DOE 5-107, attached to this testimony as Attachment JED/RDW/JJD-8. The attachments to the data response, Attachments DOE 5-107(a) through DOE 5-107(c), show continued work and accrual of expenses through 2022 and into 2024 for many projects, confirming for the Department that work continued after the 2021 in-service dates provided by the Company as part of the third step adjustment. In some cases, such as the Rochester 4kV Conversion project, the Manchester Network Cable project, and the 43W1 Circuit Tie project, those additional expenditures were significant. PSNH asserts that carryover costs result when "a *portion* of the project is placed in service" and that there were "trailing invoices" associated with most of these projects. Such explanations do not obviate the fact that the above listed projects continued to accept charges, and presumably additional work, after the Company represented that they were finished, complete and eligible for recovery as part of the 2021 step adjustment. Moreover, the Department is troubled by PSNH's excessive lag time in handling the accounts payables for some of these projects in that it appears to have taken up to three years to settle these accounts.

Q. What is the Department's recommendation for how the Commission should treat these projects in this rate case?

A. The step adjustment projects listed in Table 3 are similar to the Multi-year projects reviewed above in that the primary standards of review are the used and useful standard and the requirements of RSA 378:a. The key differences between these projects are that the step adjustment projects were previously approved by the Commission for recovery in 2022 on the belief and understanding that they were used and useful and in service at that time, as such were already included in the Company's rate base as of the filing of the 2023 test year, and have been earning a return and accumulating depreciation for the last three years. As discussed above, the Department has always maintained a holistic approach for reviewing capital projects. That is, in order to be considered used and useful, and eligible to be booked to plant, capital projects must be finished, complete and providing service. Under traditional rate-making principles, an electric utility is entitled to recover "prudent" investments only when they become "used and useful." Pursuant to the two standards, capital investments can be disallowed for not being prudent, for not being used and useful, for or both. Placing individual components or pieces of a single project into rate base as they are completed does not meet the used and useful standard.

Likewise, the continued accrual of expenses for a project is insufficient to justify inclusion in rate base. At no time during the step adjustment proceeding in Docket DE 22-030 did PSNH disclose or represent that some of the projects included in the step adjustment were multi-year or phase-in projects, with the exceptions of the Millyard project and the Nashua Work Center project which were deferred. If the Company had made such a disclosure, the Department would have recommended the deferral of the projects in Table 3 until the Company's next rate case. Indeed, in terms of the Millyard project and the Nashua Work Center project, that is exactly what happened: PSNH agreed to remove those projects from the step adjustment request and defer them until the Company's next rate case in part because they were not yet complete.[29] Similarly, as referenced above, DOE's Audit Division found that the Hookset-1250 LED Lighting and 55 W. Brook LED Lighting projects were "not fully in service" and recommended their removal from rate base, to be deferred until the Company's next rate case. As a result, the Department recommends that the Commission reaffirm its finding that the projects in Table 3 were complete and used and useful as of 2021 and require that the additional expenditures for those projects, totaling approximately $3.6 million, be permanently disallowed, along with all associated returns and depreciation since 2021, because those expenditures were not properly added to plant-in-service in compliance with the used and useful standard or RSA 378:a, and by including those additional investments in the 2023 test year PSNH's rate base would be overstated and not result in just and reasonable rates.

[29] *See* Docket No. DE 22-030, Tab 26, Eversource Energy Letter to Commission on 9/20/22 Hearing, at 1.

Table 4: Specific Permanent Disallowances

Project No.	Description	Budget	Disallowance
23769	Install EV Charging Stations	$254,180	$219,996
23726	Nashua EV Charging Stations	$101,065	$ 91,743
IT22447	NH PowerClerk Implementation	$3,552,000	$3,053,670
22797	Derry AWC Acquisition	$3,720,497	$1,350,000
NHLC03	NH Line Contractors	$ 300,000	$ 639,741
A16N01	11W1-Replace Submarine Cable	$1,709,918	$ 74,810
EV23009	NH EV Make Ready	$ 650,000	$ 139,786
19720	Nashua AWC Construction	$8,000,000	$8,642,879
217108	Nashua Front Office Reno	$2,133,474	$1,892,354
22743	Nashua Front Office-MEP	$1,182,224	$ 921,026
A178S03	Millyard SS Replacement	$14,267,000	$ 290,499
NHEDVH22	2022 NH Electric Dist Fleet	$6,573,759	$ 1,247,000
NHEDVH23	2023 NH Electric Dist Fleet	$11,411,291	$ 1,202,379
Total			$19,765,883

Q. Please provide the results of the Department's review of these projects.

A. Below we provide our findings for the sample projects recommended for permanent disallowance, based on PSNH's responses to the Department's Data Requests and information obtained from technical sessions that have been incorporated in the attachments to our testimony for each of the projects analyzed. Note: The Project Authorization Forms and Supplemental Funding Forms are separate documents but are typically incorporated into a single document package when the Company requests additional funding.

2021-2023 Capital Projects

1. Project #23769 Install EV Charging Stations
2023 Budget: $254,180 Actual: $219,996 Variance: ($34,184)
Project #23726 Nashua EV Charging Stations
2023 Budget: $101,065 Actual: $91,743 Variance: ($9,322)
Attachment JED/RDW/JJD-9

Note: Both of these projects are similar in type and purpose therefore they are analyzed together as part of this analysis.

PAF Analysis: The Company did not generate PAF's for these projects because they do not meet the minimum criteria under APS-01 for a Project Authorization Form, therefore there was no project description, supporting financial analysis, or project justification available for the Department to review. Based on information obtained in discovery and at technical sessions, PSNH states that these charging stations were installed at the Company's properties in Portsmouth and Nashua: 4 charging stations at Portsmouth and 4 charging stations at Nashua. The purpose of the charging stations is to provide free charging for employees or guests who own electric vehicles (EV's), specifically 26 employees at Portsmouth and 53 employees at Nashua.[30]

Project Close-out Report: As project close-out spreadsheet was provided that confirmed the final costs of $219,996 for the Portsmouth project and $91,743 for the Nashua project.

DOE Analysis: As noted above, no project documents were available to review under these project types. As a result, there was no way for the Department to perform a thorough assessment or analysis of the expenditures for these projects. Nevertheless, the Department learned through discovery and technical sessions that the charging stations were primarily installed and intended to provide an added benefit for employees of the Company. As such, the charging stations are not available for use by PSNH ratepayers.

[30] *See* Attachment JED/RDW/JJD-9 Data Response DOE 10-197.

Conclusion & Recommendation: The Department finds that the charging stations were installed for the main purpose of serving the Company's employees who own EV's and provide no benefits to PSNH ratepayers. As a result, DOE views these projects as additional perks for PSNH employees that are not available or accessible to ratepayers and should be funded by the Company's shareholders. Therefore, the Department recommends total disallowance from the 2023 test year rate base of the full amount of the expenditures for these two projects totaling $311,739.

2. Project #IT22447 PowerClerk Implementation
Attachment JED/RDW/JJD-10
2022 Budget: $3,552,000 Actual: $3,053,670 Variance: ($498,330)

PAF Analysis: According to the PAF for this project dated June 29, 2022, the purpose is to purchase and deploy a DER customer self-serve portal and workflow system platform for DER customers and developers who wish to connect their DER projects to the grid through PSNH's electric distribution system. PowerClerk provides DER applicants with an interactive, two-way communications system that automates the application process replacing a previously manual system and also provides PSNH with the ability to manage DER resources from development, engineering, and construction through operation.[31] The software is cloud-based and is currently in use in Eversource's other jurisdictions in Massachusetts and Connecticut.

[31] *See* Attachment JED/RDW/JJD-10 PAF PowerClerk Implementation.

Project Close-out Report: A project close-out spreadsheet was provided which confirmed the final costs of $$3,053,670.[32] A substantial portion of the total costs involved $1.23 million for "Outside Services" and $1.2 million for "Contingency" costs.[33] PSNH failed to provide any specifics as to what constituted the contingency costs.

DOE Analysis: The Commission convened a docket on September 22, 2022, in Docket No. DE 22-060, to consider changes to net metering in New Hampshire which included proposals by participating utilities to charge application fees to DER developers and owners seeking to interconnect and enroll in a utility's net metering program.[34] Some of the parties to the docket, including PSNH, reached settlement in that proceeding on August 1, 2024, and agreed on the New Hampshire Customer-Generator Application Fee Proposal which, among other things, outlined "Eligible Administrative Expenses" that would be covered by revenue obtained from the fees. The Department did not join the settlement, but supported the application fees. The general administrative expenses the utilities agreed to fund through the application fees included "Information Systems" and "Information technology solutions that support utility interconnection processes."[35] In its November 18, 2024 order, the Commission echoed this understanding stating that "The three electric utilities would use these fees and apply them to qualifying expenses, which would include costs for staff, services, and systems that are required to efficiently process customer-generator

[32] *Id.*
[33] *Id.* DOE Data Response 7-143 b.
[34] Docket No. DE 22-060, Tab 124, Order No. 27,074 at 1-2.
[35] *Id.* Exhibit 1, Settlement Agreement and Attachments at Bates 30.

applications to interconnect to the grid in a manner consistent with applicable rules and statutes."[36] After reviewing the relevant subject matter in Docket DE 22-060, and the Company's responses to DOE's data request, it seems clear to the Department that it was the intent of the DE 22-060 parties and the Commission that the revenue from the application fees would be used in part to defray the costs of "information systems" and "information technology" involved with the processing of DER customer-generator interconnection applications. PSNH's responses to the Department's data request appeared ambiguous on this point, but PSNH argues that the timing of Company's expenditures on the software package versus implementation of the new fee structure should be the determining factor as to whether or not those costs are recoverable as a capital expense in this rate case.

Conclusion & Recommendation: The Department finds that the PowerClerk system is of the type of information technology intended to be covered under the Customer-Generator Application Fee Proposal. As a result, the Department does not find the Company's argument in discovery to be persuasive and believes that the costs associated with PowerClerk are not eligible to be passed on to ratepayers as capital costs included in the 2023 test year rate base and must be borne by DER Customer-Generator applicants as intended under the settlement agreement and as ordered by the Commission. Therefore, the Department recommends total disallowance from the 2023 test year rate base of the full amount of the expenditures for this project totaling $3,053,670.

[36] *Id.* Order at 27-28.

3. Project #22797 Derry AWC Acquisition
Attachment JED/RDW/JJD-11
2022 Budget: $3,720,497 Actual: $3,694,848 Variance: ($25,649)

<u>PAF Analysis:</u> This project involves the Company's work center located in Derry which is situated on premises that were previously leased by PSNH from a private party. The property consists of 3.54 acres of land and a 17,500 sq. ft. single-story building including office and warehouse space. The Company's lease was set to expire on October 1, 2023, and the landlord indicated an interest in either redeveloping the property or selling it to a third party. To avoid the risk of an unsuccessful renegotiation of the lease which would result in moving the operation to a different location, PSNH decided to purchase the property from the landlord. According to the PAF for this project, the Company budgeted $3.7 million for the purchase based on a broker's opinion of value by Colliers International dated September 16, 2022. The broker's opinion provided a current rent value of $4.5 million representing the estimated cost of replicating the work center at a different location as opposed to an estimate of the current market value of existing property.[37] Based on the current rent value estimate, PSNH performed a net present value analysis involving purchasing the property versus leasing which indicated that purchasing the property was the least cost option. PSNH did not commission a commercial appraisal of market value for the property since the landlord conditioned the sale on an expedited closing prior to year-end 2022 and time was of the essence.[38] As a result, the Company and the landlord agreed on a

[37] *See* Attachment JED/RDW/JJD-11, Attachment DOE Data Response 10-207(b).
[38] *Id.* DOE Data Response 10-207 a.

negotiated sale price of $3.6 million. The sale of the property closed on October 18, 2022.

Project Close-out Report: The project close-out spreadsheet shows additional costs over and above the $3.6 million purchase price totaling $94,589 consisting mostly of indirect/overhead costs of $48,456, confirming total spend of $3.69 million.

DOE Analysis: The Company's purchase of the Derry location appears justified given that the landlord/owner of the property had expressed interest in either developing the property for other uses or selling it out right. In light of that possibility, the importance of the location to PSNH's operations, and the costs of relocation, the Department understands the Company's interest in purchasing the property. However, the Department is troubled by the fact that the level of PSNH's due diligence in its decision making relative to the sales price appeared deficient, misguided, and imprudent in that the Company chose to rely on the estimated rental value and replacement value of the property, as opposed to current market value, as a sufficient benchmark for arriving at a reasonable sales price. Rental value and market value are very different in that rental value represents the value of the property to a prospective landlord based largely on the estimated amount of rental income the property is capable of producing, i.e. the value of future cash flows (a.k.a. the Income Capitalization Approach).[39] Market value on the other hand provides the most probable price a property should bring in a competitive and open market under all conditions required for a fair sale, with buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus.[40] Existing market conditions and consideration of the current state of the property and the multiplicity of potential uses for the property are also key factors affecting price. The Department also finds the relationship that Colliers attempts to establish between rental value and replacement value to be flawed since the two are very different. That is, replacement value is based on the principle of *substitution* which assumes the cost of the replacement structure is equal to that of the existing structure; however, Colliers failed to consider the required adjustments that must be made such as consideration of depreciation and wear and tear of the existing structure, as well as highest and best use for the property, in order to determine a reasonable value.[41] As a result, the Department concludes that the broker's opinion of current rental value did not provide PSNH with useful or relevant information to adequately inform the Company's decision on what constituted a reasonable market-based purchase price assuming a buyer who is interested in continuing the existing use of the property as an owner/operator. Although the PAF describes the need for purchasing the property and the risks for not doing so, it contains no analysis of resale value and current market value for the property, and thus no justification for the purchase price of $3.6 million despite the fact that the price had been agreed to prior to the creation of the PAF.[42] Instead, PSNH relied heavily on irrelevant information involving the reproduction costs for the AWC facility and current rental value contained in the Colliers broker's opinion.

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[39] *See* William L. Ventolo & Martha R. Williams, Fundamentals of Real Estate Appraisal, 6th Edition (1994), at 264.
[40] *Id.* at 17 under the Uniform Standards of Professional Appraisal Practice (USPAP).
[41] *Id.* at 215.
[42] *See* Attachment JED/RDW/JJD-11, DOE Data Response TS2-017 a. and b.

As a result, the Department had to look to other information provided in discovery to get an approximate sense of current market value. According to DOE Data Response 10-207, Attachment DOE 10-207 c, the tax assessment value of the Derry property is $1,152,800. Applying the 2022 equalization ratio for the town of 92.6 percent, set by the New Hampshire Department of Revenue Administration, the approximate market value (as of 2022) of the Derry AWC is $1.25 million.[43] Including the cost of the existing backup control center which PSNH values at $1 million, it appears that the approximate current market value of the Derry facility is $2.25 million, indicating that the Company overpaid for the Derry location. The Department acknowledges that sometimes the list price for real estate is exceeded in a transaction involving competing buyers and a motivated seller, however, such a price escalation must be within the bounds of reasonableness otherwise why wouldn't PSNH have paid $4 million or $4.5 million for this property. It is also noteworthy that the transaction was an exclusive sale since the property was never listed by the landlord to test the pricing limits of the marketplace in Derry.

In addition, the Department is concerned that the purchase and sale between PSNH and the landlord did not constitute a true arms-length transaction. The Department understands that for a true arms-length transaction between the buyer and seller to take place the following conditions must be present: i) neither buyer nor seller is acting under duress, ii) the property must be offered on the open market for a reasonable length of time to provide market exposure, iii) both buyer

[43] https://www.revenue.nh.gov/sites/g/files/ehbemt736/files/inline-documents/sonh/municipal-property/2022-equalization-survey-including-utilities.xlsx The equalization ratio indicates the relationship between assessed value

and seller are aware of the property's potential, including its assets and defects, and iv) no unusual circumstances are present that may be favorable to either party such as a seller desperate to sell or a buyer desperate to buy.[44] Based on these rules of thumb used widely for property appraisal, it is apparent to the Department that all four of the conditions disqualify the sale from being a true arms-length transaction: i) the landlord appeared to have substantial leverage in this transaction given that the landlord notified the Company of its interest in redeveloping or selling the property thus placing additional pressure on PSNH due to the prospect of relocating the facility as significant cost, ii) the property was not yet listed for sale on the market which would have tested the asking price of $3.6 million by exposing the property to other potential buyers, iii) the property did have some unattractive characteristics in that it had been used exclusively as an electric utility facility for a number of years, and iv) it appears that unusual circumstances did exist since the landlord demanded expedited closing of the transaction at an above-market price. For all of these reasons, the Department is highly skeptical that the $3.6 million purchase price is truly representative of the market value of the Derry property in 2022.

Conclusion & Recommendation: The validity of the $3.6 million sales price was not based on a reliable assessment of current conditions or values existing within the Derry commercial real estate market. Such an assessment could only be provided by a licensed commercial appraiser. As a result, PSNH had no way of knowing with any certainty whether $3.6 million was a reasonable price for the

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and market value rendering an approximate market value for the subject property.

[44] *See* William L. Ventolo & Martha R. Williams, Fundamentals of Real Estate Appraisal, 6th Edition (1994), at 50.

property or if the Company was paying more than the market was currently requiring. Under pressure by the landlord to expedite the closing by year-end 2022, and given the Company's concern related to relocation costs, the landlord appeared to be in position to dictate price thus PSNH chose not to engage in a prudent and informed assessment to determine market value. Therefore, the Department recommends that the difference between the sales price and the approximate market value of the Derry property, $1.35 million, be disallowed by the Commission and removed from the 2023 test year rate base.

4. Project # NHLC03 NH Line Contractors
2022 Budget: $300,000 Actual: $639,741 Variance: $339,741
Attachment JED/RDW/JJD-12

<u>PAF Analysis:</u> According to the PAF, this project is intended to "capture costs associated with outside services (contractor labor, equipment, material, etc.) for unvouchered liabilities when specific work orders are either unavailable or cannot be determined." [45] PSNH goes on to explain that all charges to this project are reversed resulting in a net zero balance once all invoices are received and processed. Based on the minimal information contained in the PAF, the Department concludes that PSNH uses this project as a vehicle to hold accumulated annual work-in-progress costs for all project categories until such time as those costs can be allocated to the appropriate project and unitized to plant. As a result, it appears that the Company does not consider this project to be an individual capital asset in and of itself but instead consists of many un-

invoiced expenditures related to many different projects within the "Emergent Equipment Failures" category. The PAF did not contain any supporting financial analysis for the Department to review. A Supplemental Funding Request form describing the cause and the justification for the cost overrun of $339,741 under this project category was not produced and was not available for the Department's review.

Project Close-out Report: A project close-out spreadsheet was provided which listed a number of nondescript expenses totaling up to the actual spend amount of $639,741 with the largest component consisting of $560,930 in indirect/overhead charges.

DOE Analysis: As noted above, the PAF for this project contained no financial analysis and no Supplemental form was provided. As a result, there was no way for the Department to perform a thorough assessment or analysis of the expenditures or the cost overruns incurred under this project. In addition, the line items contained in the close-out report were general and nondescript, and not tied to any specific project number, thus preventing the Department from establishing which expenditures were related to a certain project, which expenditures were appropriately charged, and which expenses contributed to the cost overrun for projects that were completed, used and useful, and providing service to customers in the test year in compliance with RSA 378:30-a. Moreover, there was no way for the Department's Regulatory or Audit Staff to assess or determine the justification or prudence of those costs in the absence of additional documentation backup. In addition, given that PSNH capitalizes labor costs both from the

[45] *See* Attachment JED/RDW/JJD-12 PAF.

timecards of workers and through burden allocations, there was no way for the Department or Audit to verify whether such costs were not double counted under this project category. Also troubling is that these costs are to be trued up to invoices at year-end resulting in a zero balance, however there were amounts left over at year-end 2023 totaling $639,741 that were apparently carried over to the following year. The actual causes for these carryover expenditures are unknown and the Department was unable to link them to any specific projects based on the information provided by PSNH. Moreover, as referenced above and discussed in the Audit Report, the Department is very concerned about the escalation in indirect/burden rates by the Company and that concern is intensified with this project given that the bulk of the costs included in this category are burdens and overheads. It is the Department's view that all charges should be allocated directly to the appropriate projects when incurred thus eliminating the need for this type of project.

Conclusion & Recommendation: The Department firmly believes that such expenditures must be substantiated and accounted for with more than just a vague project description and non-descript journal entries. Management's decisions associated with the creation of these expenditures must be substantiated in a way that permits intelligent review of those decisions by both the Department and the Commission. Because the needed documentary support was not provided by the Company, the Department recommends the full amount of the expenditures for this project category totaling $$639,741 should be disallowed from inclusion in 2023 test year rate base.

5. Project # A16N01 11W-1 Replace Submarine Cable
Budget: $360,000 Actual: $1,709,918 Variance: $1,349,918
Attachment JED/RDW/JJD-13

PAF Analysis: This project involved the replacement of two old and deteriorating submarine cables providing electric service from the mainland to Welch and Lockes Islands on Lake Winnipesaukee. The older cables were severely deteriorated and experienced failures at both locations. The project consisted of installing two single phase 1/0 15kV submarine cables totaling 15,000 feet of cable along with directional bore conduit and new riser poles at each location. The budget estimate for the project was $360,000 but it was later discovered that the original budget and scope were flawed and failed to consider all of the cost elements for the project. As a result, a Supplemental Request was submitted increasing the project budget amount to $1.9 million. The final cost to complete the project was $1.7 million.

Project Close-out Report: No Close-out Report was provided.

DOE Analysis: It is important to note that this project was submitted by PSNH as part of its 2020 Step Adjustment request and was represented by the Company as complete, in service and used and useful at that time. However, Attachment DOE 5-107(c) shows that charges continued through 2022 resulting in an additional charge to plant-in-service of $74,810.[46] It is also important to note that the project was previously subject to a disallowance in the amount of $163,000 ordered by the Commission in the second step adjustment proceeding based on a

[46] *See* Attachment JED/RDW/JJD-13.

finding of imprudence related to the flawed analysis contained in the original PAF.[47]

Conclusion & Recommendation: As noted in the discussion for step adjustments above, PSNH has submitted several projects in this rate case for recovery in the 2023 test year rate base that were previously submitted for recovery in the Company's prior step adjustments. The situation with this project is no different in that it was thoroughly reviewed at the time of the second step adjustment and was represented by PSNH to be complete, in-service, and used and useful. As a result, the Department maintains its belief that continuing charges for step adjustment projects after they were reported as complete and placed into service must be disallowed. Therefore, the Department recommends permanent disallowance of the amount of $74,810.

6. Project # EV23009 NH EV Make Ready
Budget: $650,000 Actual: $254,387 Variance: ($395,613)
Attachment JED/RDW/JJD-14

PAF Analysis: Pursuant to PUC Order No. 26,667 in Docket No. 21-078 establishing the EV Marke Ready Program, PSNH will be using $2.1 million in ratepayer funds to support the installation of EV charging infrastructure in New Hampshire, supplementing $4.6 million in funding provided by the Volkswagen Settlement Trust. For 2023 PSNH budgeted $650,000 to cover the utility portion of the make-ready costs associated with the EV charging stations. As a result, the Company completed one project in 2023 at the Monadnock Community Market

[47] Docket No. DE 19-057, Tab 180, Order No. 26,504 dated 7/30/21 at 6-7.

Cooperative in Keene. The total cost for that project came in at $409,211 with PSNH contributing $252,716 for its portion of the project and the VW Fund contributing $114,601.[48] However, as explained below, PSNH appears to have mistakenly conflated the two amounts and booked the wrong amount, $252,716, to its 2023 plant-in-service.

Project Close-out Report: The Close-out Report attached to the PAF appeared to support a larger amount of $285,631 due to $28,240 remaining in CWIP.

DOE Analysis: In reviewing documentation provided by PSNH in discovery, it appears from the contractor's invoice from Revision Energy that the Company was billed $114,601 for its part of the project, and not $252,716.[49] In addition, that billed amount also appears on the Schedule of Values worksheet in column H under 'costs billed directly to utility."[50] The $252,716 amount was derived by PSNH after all other contributions from the owner and the VW Fund was accounted for. However, it is clear from the invoice that only the lesser amount of $114,601 was due from PSNH and that the $252,716 was to be provided by the VW Fund.

Conclusion & Recommendation: Based on DOE's analysis of the invoicing above, the Department concludes that the appropriate amount for PSNH's portion of this EV make ready project should be $114,601. As result, the Department recommends that the Company's contribution to the project be adjusted downward from $254,387 to $114,601 resulting in a disallowance from 2023 test year plant-in-service of $139,786.

[48] *See* Attachment JED/RDW/JJD-14, Data Response DOE TS2-001.
[49] *Id.* Attachment DOE TS2-001(a).

7. Project # 19720 Nashua AWC Construction
Budget: $8,000,000 Actual: $8,642,791 Variance: $642,791
Attachment JED/RDW/JJD-15

<u>PAF Analysis:</u> According to the PAF, after a review of the Nashua AWC location by Eversource's Property Management Group, it was determined that the existing facility was too outdated and too small to continue to meet PSNH's needs given the substantial growth experienced by the Company in southern New Hampshire in recent years. As a result, plans were initiated to expand the facility from 18,450 sq. ft. to 31,000 sq. ft providing 15,000 sq. ft. in new office space and 16,000 sq. ft. in garage space. The project would be a complete renovation of the building leaving only the load bearing walls. PSNH budgeted $8.0 million for the project with the final cost coming in at $8.6 million. The renovation appears to have been completed in 2022.

<u>Project Close-out Report</u>: The Close-out Report attached to the PAF supports the final spend amount of $8,642,791.

DOE Analysis: As outlined below, the Department is troubled by a number of different elements involved with what appears to be a very opaque and subjective bidding and selection process that PSNH utilized to hire the building contractor for this project. Also, it is important to note that this project was submitted by PSNH as part of its 2021 Step Adjustment request but was removed from consideration by PSNH at the behest of the Department in part because the project was not yet complete.

[50] *Id.* Attachment DOE TS2-001(b).

- Of Choice and Master Service Agreements: PSNH describes this process as an "of Choice" program whereby a list of vetted and preferred contractors is created who agree to enter into pre-negotiated terms and rates governed by a Master Service Agreement (MSA).[51] When a specific project arises during the term of an MSA (like Nashua), PSNH will issue a request for proposal (RFP) to only those contractors who have executed the MSA. Oddly the RFP only focuses on the technical expertise of those contractors as opposed to actual price bids for the project since PSNH apparently relies on the cost information contained in each MSA. The cost information is limited to mostly labor rates for the different types of labor performed and provides no pricing for materials. When the Department asked PSNH how it was able to differentiate between the highest and lowest bidder under this process the Company responded that the evaluation of bids was limited to only technical score and proposed rates and fees under the MSA.[52] However, out of the four contractors that responded to the RFP, AZ Corp, Olsen Construction, Standard Builders, and North Branch Construction, only the winning bidder North Branch Construction provided a total cost estimate for the project in the amount of $6.9 million.[53] How this differentiated North Branch from the other bidders is unknown. When asked to provide a cost estimate from each of the other bidders based on a calculation from the rates and fees they submitted, PSNH was unable to do so.[54] As a result, the Department had no way of

[51] *See* Attachment JED/RDW/JJD-15, Data Response DOE 10-203 c.
[52] *Id.* Data Response DOE TS3-002 c. ii.
[53] *Id.* Data Response DOE TS3-002 c. i.
[54] *Id.*

ascertaining which bidder provided the highest or lowest bid, however, as discussed below, it appears that Olsen Construction and Standard Builders had offered the lowest rates.

- RFP Process and Bid Evaluation: Under the "of Choice" program, PSNH bids out work to contractors who have an MSA with the Company. Interestingly, bids are sought from "of Choice" vendors for projects ranging from $250,000 to $5 million, but for projects that exceed $5 million (like Nashua) PSNH claims that it bids out to a "much larger audience."[55] As noted above, only four of the "of Choice" contractors responded to the Nashua RFP with North Branch winning the contract. According to the CONFIDENTIAL version of Attachment DOE 10-203(b), bidders are evaluated by PSNH using a Procurement Summary that contains an Evaluation Criteria worksheet with a scoring system where each contractor is rated based on Commercial and Technical factors with Commercial given the highest weighting of the overall score and Technical given a lowest weighting.[56] Curiously, the Commercial portion of the worksheet was not filled out and thus PSNH performed no evaluation of the bidders under the most heavily weighted criteria. Only the Technical portion of the evaluation was completed indicating to the Department that the overall cost of the project was not a primary factor in the Company's decision making. Under the Price Matrix portion of the form, rates for markups and fees for each bidder was provided based upon agreed-to rates and fees contained in the individual

[55] *See* Attachment JED/RDW/JJD-15, Data Response DOE 10-203 c.
[56] *Id.* Attachment DOE 10-203(b) **CONFIDENTIAL**

MSA's. Based on the Department's review of the matrix, Olsen and Standard Builders clearly had the lower rates whereas North Branch was the next highest bidder behind AZ Corp which appeared to be the most expensive bidder.[57] When asked about the incomplete evaluation in discovery, PSNH responded that "design services were still in progress, and the bidders' rates and fees were calculated and evaluated to factor into the contract award. As a result, the pricing section of the evaluation was not completed."[58] The Company went on to say that "North Branch was chosen based on their abilities to execute the project, this included proximity to the project area, familiarity with the local (sic) jurisdiction have authority and local work force that would provide the needed timely attention to the project."[59] However, in reviewing the bid proposals provided in the CONFIDENTIAL versions of Attachments DOE TS3-002(e), (f), (g), and (h), it was clear that the lower cost bidders, Olsen and Standard Builders, possess experience and qualifications equal to that of North Branch. In fact, both companies had prior experience with building projects for Eversource Energy, with Standard Builders just completing a similar project involving the Waltham Service Center in Waltham, MA at the time of submitting its bid. North Branch did not disclose any prior experiences with Eversource in its proposal. The only discernable advantage for North Branch appeared to be the fact that it was a local company. PSNH considers this to be "a value-added service" but it is not clear whether or not the Company communicated any concerns to the other

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[57] *Id.*
[58] *Id.* Data Response DOE TS3-002 b.

bidders about being out-of-state companies, plus that was not one of the required qualifications provided in the RFP. However, PSNH did disclose that North Branch had prior involvement with the Nashua project in which North Branch had assisted the Company's project manager architect in formulating the project budget which included pricing out tasks with sub vendors and suppliers.[60] This type of close relationship, prior to the project going out to bid, indicates to the Department that North Branch had an unfair advantage over the other bidders for the project that may have factored into PSNH's decision to de-emphasize pricing and award the bid to North Branch.

Conclusion & Recommendation: Based on the above analysis the Department finds PSNH's bidding process to be imprudent and ineffective for the following reasons:

i. Highly susceptible to favoritism and unfair evaluation as evidenced by the winning bidder North Branch having significant prior involvement since inception of the project.

ii. Over reliance on technical qualifications while de-emphasizing costs (contrary to the weighting contained in the evaluation form) resulting in an incomplete evaluation and failure to deliver least costs for ratepayers.

iii. Incoherent pricing scheme contained in the MSA's under which PSNH was unable to calculate and provide total cost estimates for each bidder, other than North Branch, for the purposes of cost comparisons.

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[59] *Id.* Data Response DOE TS2-002 c. iii.
[60] *Id.* Data Response DOE TS2-002 a.

iv. Limiting the bidding to only those contractors that have MSA's in place with PSNH thus eliminating the ability for a more diversified group of qualified companies to participate.

Therefore, the Department finds PSNH's procurement and bidding process to be imprudent and recommends that the entire amount of $8.6 million for the Nashua AWC project be permanently disallowed as an imprudently incurred expenditure.

8. Project # 217108 Nashua Front Office Reno
Budget: $2,133,474 Actual: $1,892,354 Variance: ($241,120)
Attachment JED/RDW/JJD-16

PAF Analysis: According to the PAF, this project was to provide new front office space at the Nashua AWC which was undergoing an extensive rebuild and expansion. The renovation included new windows, doors, walls, floors, furniture, IT, and security systems. Because of the renovation, PSNH employees were working from home at that time.

Project Close-out Report: The Close-out Report attached to the PAF supports the final cost of the project of $1.9 million.

DOE Analysis: According to PSNH's responses in discovery, the Company decided not to put the renovation project out to bid since they believed it would be more efficient to award the work to the existing general contractor North Branch Construction.[61] As a result, an RFP was not issued and no other bids were received. Instead, it appears PSNH accepted the pricing offered by North Branch

[61] *See* Attachment JED/RDW/JJD-16, Data Response DOE 10-204 c.

without entertaining offers from other vendors that may have provided the same services at a lower price.[62]

Conclusion & Recommendation: As discussed in great detail above involving the Nashua AWC rebuild, the Department has found PSNH's procurement and bidding process to be plagued by its susceptibility to favoritism, insufficient evaluation, and over reliance on technical acumen. In terms of the Nashua front office renovation project, similar characteristics appeared but in this instance the project was never put out to bid. Instead, the project was merely awarded to the existing general contractor North Branch Construction. In addition, PSNH appeared to accept North Branch's pricing without question or any evaluation in complete disregard of least cost principles. Both are signs of a severely flawed and imprudent procurement process. Consequently, the Department recommends permanent disallowance of the full amount of the front office renovation of $1.9 million.

9. Project # 22743 Nashua Front Office - MEP
Budget: $1,182,224 Actual: $921,026 Variance: ($261,198)
Attachment JED/RDW/JJD-17

PAF Analysis: Similar to the front office project above, this project was dedicated to installing the mechanical, electrical, and plumbing systems as part of the front office renovation.

Project Close-out Report: The Close-out Report attached to the PAF supports the final cost of the project of $921,026.

[62] *Id.* Attachments DOE 10-204(b) and (c) CONFIDENTIAL.

DOE Analysis: Like the front office project above, the Company decided not to put the mechanical, electrical, and plumbing phase of the project out to bid since they believed it would be more efficient to award the work to the existing general contractor North Branch Construction.[63] As a result, an RFP was not issued and no other bids were received. Instead, PSNH accepted the pricing offered by North Branch without entertaining offers from other vendors that may have provided the same services at a lower price.[64]

Conclusion & Recommendation: Again, as discussed in great detail above involving the Nashua AWC rebuild, the Department has found PSNH's procurement and bidding process to be plagued by its susceptibility to favoritism, insufficient evaluation, and over reliance on technical acumen. The portion of the renovation project involving the mechanical, electrical, plumbing systems is no different. This part of the project was never put out to bid and the project was merely awarded to the existing general contractor North Branch Construction. Again, this part of the project represents additional signs of a severely flawed and imprudent procurement process. As a result, the Department recommends permanent disallowance of the full amount of this part of the front office renovation project of $921,026.

[63] *See* Attachment JED/RDW/JJD-17, Data Response DOE 10-205 d.
[64] *Id.* Attachments DOE 10-205(b) CONFIDENTIAL.

10. Project # A17S03 Millyard SS Replacement
Budget: $14,267,000 Actual: $13,328,736 Variance: ($938,264)
Attachment JED/RDW/JJD-18

PAF Analysis: According to the PAF, Millyard Substation is a 34.5kV-4.16kV substation located in the Millyard area of Nashua. The substation transformers are 68 and 71 years old and the substation as a whole is considered by PSNH to be obsolete and unsuitable for continued growth in the area. As a result, the existing Millyard Substation was scheduled for retirement in 2022, to be replaced by a new Millyard substation at a different location. The City of Nashua expressed interest in relocating the substation to City property as part of its Waterfront Plan for development in that area. PSNH and the City subsequently reached agreement in relocating the substation involving a land swap transaction between the two parties. Part of the agreement with City was that PSNH would conduct and pay for environmental clean-up and remediation at both properties subject to the land swap.

Project Close-out Report: The Close-out Report attached to the PAF supports the final cost of the project of $13,328,736.

DOE Analysis: The Department does not dispute the need for this project or any of the elements of project scope or design. Likewise, the Department agrees with the decision to relocate the substation and appreciates the thorough alternatives analysis performed by the Company in the PAF. The problem for the Department lies in the land swap transaction between the City and PSNH involving the cost of environmental cleanup and remediation of the City parcel. In discovery, the

Company reported that the final cost to remediate the existing substation site was $293,011 and the cost to remediate the City property was $290,499.[65] PSNH stated that the City refused to clean-up or pay for the clean-up of City property and was not obligated to do so because it was part of a negotiated agreement with the Company.[66] PSNH provided a copy of the Purchase and Sale Agreement with the City and the Department's review of the agreement revealed that under Section 3(c) of the agreement PSNH is obligated to clean-up the Company's existing substation lot at its own expense, but the agreement is silent on obligating PSNH to clean-up the City's lot.[67] The Department requested further clarification from the Company related to the "negotiated agreement" between the City and PSNH obligating PSNH to conduct and pay for the clean-up of the City lot. The Company responded that there was no written agreement with the City or contractual obligation requiring PSNH to remediate the City lot and that PSNH was conducting the remediation of its own volition in accordance with its standard policies and procedures for substation sites.[68] PSNH went on to claim that the costs of clean-up at the City site were mitigated by the City's assistance in acquiring certain easements and the City's offer to allow the Company to dump limited quantities of certain materials at the City landfill.[69]

Conclusion & Recommendation: It is clear from the Company's responses in discovery and technical sessions that the City of Nashua refused to remediate or

[65] *See* Attachment JED/RDW/JJD-18, Data Response DOE 13-245 c.
[66] *Id.*
[67] *Id.* Attachment DOE 13-245(a).
[68] *Id.* Data Response DOE TS3-005 a.
[69] *Id.* Data Response DOE TS2-20 b. and DOE Data Response TS3-005 a.

pay for remediation of its property as part of the land swap agreement. It is also clear that the land swap was initiated by the City pursuant to its interests in implementing its Waterfront Plan for re-development. In addition, contrary to the initial representations of the Company, there was no formal negotiated agreement between PSNH and the City alleviating the City of its responsibility as the property owner to clean-up the City's site. The issue before the Department, and the Commission, is how the Company can justify the clean-up costs of the City lot in the amount of $290,499 as being a legitimate ratepayer expense. It is the Department's view that given both parties were aware of environmental contamination at their respective sites, each had an equal obligation to ensure that their properties were remediated as part of the land swap agreement. Since that did not happen, it appears to the Department that PSNH entered into a land swap arrangement that was not entirely fair or equitable to the Company or the Company's ratepayers. As a result, the Department concludes that PSNH's decision to conduct and incur the costs of environmental clean-up at the City property was imprudent, providing no benefits to the ratepayer, and that the amount of $290,499 should be permanently disallowed from the 2023 test year rate base.

11. Project #NHEDVH22 2022 NH Electric Dist Fleet
Budget: $6,573,759 Actual: $4,299,503 Variance: ($2,274,256)
Project # NHEDVH23 2023 NH Electric Dist Fleet
Budget: $11,411,291 Actual: $8,206,153 Variance: ($3,205,138)
Attachment JED/RDW/JJD-19

Note: Both of these projects are similar in type and purpose therefore they are analyzed together as part of this analysis.

PAF Analysis: These projects represent PSNH's annual fleet vehicle purchase program for 2022 and 2023. The fleet vehicle program strategically replaces vehicles to improve reliability and mitigate long-term costs for repair and maintenance. Vehicles to be replaced are identified annually based on age, condition, and need across the fleet. For 2022 and 2023, PSNH planned to replace approximately 40 diesel powered trucks consisting of materials handler trucks with JEMS, trouble trucks, and squirt booms, along with digger derricks and Freightliner gas trucks with electric or partially electric vehicles pursuant to Eversource Energy's net zero 30 carbon reduction goals. PSNH intends to electrify 100% of its fleet by 2030.

Project Close-out Report: The Close-out Reports attached to the PAF's support the final costs of the projects for 2023 of $4,299,503 and $8,206,153 respectively.

DOE Analysis: In 2019, Eversource Energy embarked on a corporate-wide carbon neutral plan geared toward reaching a goal of electrifying 100% of Eversource's fleet by 2030.[70] Much of the impetus behind this plan emanated from Eversource's involvement and sponsorship of research with the University

[70] Attachment JED/RDW/JJD-19, Eversource Carbon Neutral Announcement.

of Connecticut and from net zero carbon policies enacted by Connecticut and Massachusetts.[71] As mentioned above, PSNH replaced a number of diesel powered and gasoline powered fleet vehicles with electrified vehicles in compliance with Eversource Energy's corporate-wide carbon neutral initiative. In 2022, PSNH purchased the following replacements (compared with cost of diesel units):[72]

2022 Replacement Vehicles Cost Equivalent

Type	# of Units	Cost	of Diesel	Diff.
Material Handler JEMS	14	$4,576,824	$3,554,824	$1,022,000
Trouble Truck JEMS	5	$1,265,255	$1,040,255	$225,000
Totals		**$5,542,417**	**$4,585,079**	**$1,247,000**

The Company claims that no aerial squirt boom JEMS were purchased in 2022. For 2023, PSNH purchased the following replacements:

2023 Replacement Vehicles Cost Equivalent

Type	# of Units	Cost	of Diesel	Diff.
Material Handler JEMS	4	$1,330,544	$1,015,664	$314,880
Trouble Truck JEMS	3	$ 804,156	$ 624,153	$180,003
Aerial Squirt Boom JEMS	3	$ 583,623	$ 470,733	$112,890
Totals		**$2,718,323**	**$2,110,530**	**$607,773**

[71] *Id.* Eversource Sustainable Investment Opportunity at 10 and 14; and Eversource Sustainability Report at 7.
[72] *Id.* Data Response DOE TS2-022 SP1 and Attachment DOE 14-259(a).

As a side note, PSNH disclosed in discovery that the purchase of a Prinoth Panther in 2023 in the amount of $594,606 used for line work was primarily used for transmission work and should be deducted from the 2023 test year rate base.[73]

Conclusion & Recommendation: Notwithstanding the fact that Massachusetts and Connecticut have established statutory targets and goals for zero carbon emissions for 2040 and 2050, New Hampshire is a member of the Regional Greenhouse Gas Initiative but has no firm carbon neutrality mandates.[74] There is currently no specific policy, directive, mandate, order, or climate change initiative from the Commission, the Department, or the Legislature that requires or encourages any of the New Hampshire utilities to electrify their vehicle fleets over the coming years. Although it can be argued that such goals and initiatives are desirable, they come at a substantial cost for rate payers and thus should be discussed and debated as part of a public process either at the legislature or within a regulatory venue. Therefore, the Department recommends that the Commission permanently disallow the difference in costs between the increased costs for carbon neutral vehicles and traditional diesel-powered vehicles in the amount of $1.85 million.

Q. Please provide a brief summation of the disallowances to PSNH's rate base that the Department is proposing in this proceeding.

A. The Department's recommended rate base disallowances are as follows:

[73] *Id.* Data Response DOE TS2-023 a.
[74] *Id.* Eversource Sustainable Investment Opportunity at 10.

Category	Disallowance	Justification
Reimbursable Projects	$1,045,428	Projects are 100% reimbursable from customer.
Incomplete/Multi-year	$27,858,086	Projects continued beyond test year. To be deferred until next rate case.
2021 Step Adjustments	$3,635,185	PSNH represented that all projects were complete and used and useful as part of the 2021 step adjustment.
Permanent Disallowances	$19,765,883	Imprudent expenditures and planning
Total	$52,304,582	

VI. VEGETATION MANAGEMENT PROGRAM

Q. What is the Department's general conclusion regarding PSNH's Vegetation Management Program (VMP)?

A. PSNH's VMP contains the components of a comprehensive plan consistent with industry practices. The Department supports PSNH's decision to sunset the following VMP programs for 2025:

- Enhanced Tree Trimming ("ETT")
- Full Width Clearing ("FWC")[75]

In addition, the Department agrees with PSNH's proposal to extend the trimming cycle in their northern areas to 72 months as a cost-saving measure supported by field assessments of the area's tree inventory[76]. However, it should be noted the VMP cost may require deferral of work to future years with respect to hazard tree removal.

[75] Attachment JED/RDW/JJD-20 Data Request PUC 2-032 at 1.
[76] *Id.* Data Request PUC 2-032 at 2.

Q. What is PSNH's proposal for the VMP in this rate case?

A. PSNH's VMP actual/budget comparison for years 2019-2027 is provided in the following table: [77]

	PUC 2-031 ES VMP Cost Summary (2019 to 2028)										
		2019 Actual	2020 Actual	2021 Actual	2022 Actual	2023 Actual	2024 Forecast	2025 Forecast	2026 Forecast	2027 Forecast	2028 Forecast
Line	VMP Activity	Gross Cost	Gross Cost	Gross Cost	Gross Cost	Gross Cost	Gross Cost	Gross Cost	Gross Cost*	Gross Cost*	Gross Cost*
1	Scheduled Maintenance Trim	$ 13,541,520	$ 10,320,891	$ 15,502,557	$ 14,956,053	$ 24,169,628	$ 19,292,598	$ 18,986,299	$ 19,202,982	$ 19,971,101	$ 20,769,945
2	METT	833,019	1,177,217	1,541,781	1,629,923	1,520,077	2,689,703	1,998,566	2,315,619	2,408,244	2,504,574
3	Mid Cycle Review		-	22,467	32,016	7,692	300,000	300,000	300,000	300,000	300,000
4	Customer Work	241,202	199,934	136,963	221,923	485,167	200,000	500,000	500,000	500,000	500,000
5	Hot Spot Work		-	31,451	91,688	24,828	200,000	300,000	300,000	300,000	300,000
6	Make Safe		-	-	-	10,377	341				
7	Sub Transmission (Mowing/Side Trim)	586,473	722,262	3,278,863	1,092,145	1,806,318	2,000,000	2,828,834	2,828,834	2,828,834	2,828,834
8	Distribution SMT Total	$ 15,202,214	$ 12,420,304	$ 20,514,082	$ 18,023,748	$ 28,024,087	$ 24,682,642	$ 24,913,699	$ 25,447,435	$ 26,308,179	$ 27,203,353
9	Full Width Clearing	$ 1,710,391	$ 1,204,780	$ 2,097,963	$ 1,462,715	$ 346,237	$ 1,200,000	$ -			
10	Hazard Tree Removal	15,262,134	12,264,182	10,686,632	11,197,958	13,851,606	12,000,000	18,286,301	19,048,565	19,522,701	20,002,453
11	Enhanced Tree Trimming	3,774,021	1,902,024	1,290,173	2,406,112	632,789	1,832,139	-			
12	NH Reliability				-	579,538	167,861	-			
13	Distribution Reliability Total	$ 20,746,546	$ 15,370,986	$ 14,074,768	$ 15,066,786	$ 15,410,170	$ 15,200,000	$ 18,286,301	$ 19,048,565	$ 19,522,701	$ 20,002,453
14	Vegetation Management Program Total	$ 35,948,760	$ 27,791,290	$ 34,588,850	$ 33,090,533	$ 43,434,258	$ 39,882,642	$ 43,200,000	$ 44,496,000	$ 45,830,880	$ 47,205,806
	* 3% projected total budget increase PBR										

Overall, the 2024 budget appears to incorporate the industry standard VMP components described below. The backlog for hazard tree trimming appears to be due to 2023 VMP cost constraints and overall trimming cost increases. In addition, the increased cost of traffic control (due to municipal requirements) is not unique to PSNH but an industry-wide trend.

PSNH's 2023 efforts to increase the number of vetted contractors has improved the competitive bidding process (reflected in the 2025-2028 budgeted amounts).

Considering the above budget assessment and detailed explanations below, the main issue with the 2024-2028 VMP budget/implementation is cost, hampered by reduced third-party reimbursements.

[77] *Id.* Data Request Attachment PUC 2-031.

Q. Does the Department believe PSNH has demonstrated their proposed VMP will provide future benefits to customers to warrant this substantial budget increase?

A. No, not entirely. The substantial vegetation management required for storm restoration efforts involving the seven major storms occurring in 2022-2023 (currently under investigation in Docket DE 24-041) came in at a total cost of $21.9 million.[78] Such a large sum for additional vegetation management does not inspire confidence and appears to indicate that PSNH's current level of VMP has not been as effective as planned. The purpose of vegetation management is to not only prevent the natural encroachment of vegetation on distribution lines, but also to mitigate the impacts of branch and tree falls that may occur as a result of storms. The amount of storm damage from the series of storms in 2022-2023 involved nearly half of the Company's service area, calls into question the effectiveness and efficiency of PSNH's efforts in storm damage mitigation as a key part of the Company's current VMP. Consequently, the Department is not in a position to recommend Commission approval of the Company's request for an approximate increase of $7 million in VMP spending over the next four years. Instead, DOE recommends maintaining level funding of PSNH's VMP budget at 2023 levels in the amount of $43 million, in recognition of the cost increases discussed above, until PSNH can demonstrate as part of its next rate case filing, that it has enhanced its focus on storm damage mitigation.

[78] *See* Docket DE 24-041, Exhibit 7.

Q. Recognizing that a utility's VMP is in place to improve customer reliability and reduce storm related outage duration, what has PSNH's system historic performance been in these regards?

A. In PSNH's response to Data Request OCA 1-064, they provide a 10-year (2014-2023) summary of SAIDI events in Figures 1 (all-in events) and 2 (blue-sky events excluding Major Event Days MED). All-in events include major storms; blue-sky events include non-storm and minor storm events.[79] In Figure 1, MED-related outages dominate. In Figure 2, tree-related outages dominate, with equipment-related and vehicle-related outages being a distant second.

In PSNH's response to Data Request OCA 2-018, the Company provides four reasons "why continued reliability investments may not lead to continuous year-over-year improvements in reportable reliability indices" which are as follows:

- Reason 1 – System SAIDI performance "may decline due to more frequent minor storms."
- Reason 2 – Reliability enhancement programs "typically progress with diminishing returns, meaning the Company focuses on the most cost-effective investments for the most effective reliability benefits, (resulting in) additional investments becoming more expensive, with less of an improvement in reliability metrics."
- Reason 3 – "Aging infrastructure reliability investments need to increase to maintain the same level of reliability."

[79] Attachment JED/RDW/JJD-20 Data Request OCA 1-064.

- Reason 4 – "Long-term projects with longer durations (need) longer periods of time to yield performance improvements."

The Department considers the above assessment to be reasonable and in line with industry reliability performance expectations, however the Department remains concerned about the effectiveness of the Company's storm mitigation efforts as outlined above.

Q. Are all customers throughout PSNH's service territory experiencing 1st quartile reliability performance?

A. No. PSNH maintains a "*circuit hit list* which has four years of circuit performance (data) (reliability SAIDI, SAIFI) and ranks the circuits in order from worst (to best) performing (feeders)"[80] for each of the five regions. As expected, due to individual circuit design, equipment, equipment condition, and geographical conditions (e.g., vegetation, circuit design), reliability varies from circuit to circuit. In response, the Company targets reliability-improvement projects for the worst (performing) 100 circuits, updates the worst-performing circuit list annually, and submits the list to the PUC.[81]

Q. Does PSNH's proposed VMP specifically include programs and/or initiatives to address tree related reliability issues?

A. Yes. PSNH has taken a coordinated and comprehensive approach (with distribution engineering) focused on improving reliability and circuit resiliency. The VMP components of this approach are described in more detail below.[82] They form a comprehensive approach to reduce tree-related reliability issues consistent with industry practices and include the following:

[80] Testimony of Freeman, Schilling, Ntakou, Walker, and Renaud Attachment ES-DSP-1, Bates 2145 and 2152.
[81] *Id.* Attachment ES-DSP-1, Bates 2102.

1. Scheduled Maintenance Trimming (SMT);
2. Maintenance Enhanced Tree Trimming (METT);
3. Enhanced Tree Trimming (ETT);
4. Hazard Tree Removal (HTR);
5. Right-of-Way (ROW) clearing;
6. Mid-cycle reviews;
7. Customer work/trimming;
8. Hot spot work/trimming; and
9. Field audits.

SMT is the core component that includes trimming all overhead distribution lines on a cycle of 5 years which is consistent with NH requirements and industry practices.

ETT is a strategic program targeted at clearing overhanging and/or encroaching trees that reduce line clearances below standard levels that could result in mechanical damage to lines. Since ETT was to be completed in 2024, it has not been included in the budgets for 2025 and beyond.

METT is a strategic program targeting areas found through field inspection to be out of clearance and not yet scheduled for SMT.

HTR is a major cost component of any VMP. The focus is on three-phase lines associated with trees outside of clearance specifications that can cause damage due to poor tree conditions. This component is appropriate and consistent with standard industry practices, using reliability risk assessment techniques integrated with scheduled cycle trimming to identify target areas. HTR represents the largest VMP cost-growth component.

[82] Testimony of Robert D. Allen at Bates 02215-02221.

ROW clearing focuses on off-the-road lines. PSNH's approach of full-width clearing, side trimming and ground-level clearing/mowing is consistent with standard industry practices. Since the full width clearing component was to be completed in 2024, it has not been included in the budgets for 2025 and beyond.

Mid-cycle review, customer requests, and **hot spot trimming** are targeted at trees that can have an impact on system reliability performance and may require actions not addressed through planned cycle trimming. **Mid-cycle review** provides periodic assessments of VMP results-to-date and provides a mechanism for "mid-course corrections" if needed. **Hot-spot trimming** focuses on critical circuits and potential impacts due to local tree conditions. Routine (annual) **field audits** of all VMP components are a good addition to any comprehensive VMP Program.

Highlights from 2023 and 2024 VMP budget results follow:[83]

- SMT mileage, including the 2022 carryover, was completed as planned. No 2023 carryover is requested for 2024.
- There was a 20% increase in bid cost for SMT when compared to 2022. A major driver for the cost increase was higher traffic-control costs at the work site.

PSNH has attempted to address cost increases by adding additional vendors to improve the competitive bidding process[84] and by taking advantage of new, innovative tree-trimming equipment technologies. These actions have resulted in lower SMT costs as reflected in 2024-2028 Budget projections.[85]

[83] Docket DE-24-035, Testimony of Allen, Farley, Ntakou, and Mierzwa, Attachment RDA/IJF/EN/AVM-1 at Bates 27-53.
[84] Attachment JED/RDW/JJD-20 Data Request OCA 2-014 at 3-4.
[85] *Id.* Data Request Attachment PUC 2-031.

Q. Does the Department believe that the VMP is the only method to address tree-related reliability issues?

A. No. Other measures to address tree-related reliability issues include the following technologies (also employed by PSNH):

- TripSavers[86] – used selectively, single-phase reclosers that enhance distribution automation programs.
- Smart Switches[87] – used selectively, tripping devices that also provide status and measurement information of the grid.
- Hendrix Cable[88] – used selectively, a relatively new standard at PSNH whose conductor type and geometry can significantly reduce tree-related outages but at a significantly higher initial installation cost.
- Undergrounding[89] – used selectively (e.g., worst performing circuits) due to much higher installation and repair costs.
- Proactive Pole Replacement[90] – based on pole inspection program results/guidelines.
- Steel Poles vs Wood Poles[91] – used selectively (ROW circuits), steel poles are more resistant to tree limb damage and can be more cost effective when longevity and maintenance costs are considered.

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[86] Testimony of Lavelle A. Freeman, Jennifer A. Schilling, Elli Ntakou, Gerhard Walker, and Paul R. Renaud, at Bates 01962.
[87] *Id.* at Bates 01965.
[88] Attachment JED/RDW/JJD-20 Data Request OCA 1-060.
[89] *Id.* Data Request OCA 1-061 and OCA 1-062.
[90] *Id.* Data Request NECTA 1-009 (Rev. 1) and PUC TS1-012.
[91] *Id.* Data Request OCA 3-002 and NECTA 1-009 (Rev. 1).

Pole Size Upgrades[92] – used selectively "for roadside poles, the Company has upgraded its pole size to a minimum of a class two pole (ANSI O5.1-2022) to harden the system during major weather events."

Q. Does the Department support PSNH's proposal to remove reconciliation of its VMP cost from the Regulatory Reconciliation Adjustment ("RRA")?

A. PSNH has proposed to remove reconciliation of its VMP cost from the RRA to "promote increased cost control incentives and efficiencies".[93] The Department understands that PSNH will continue to file its yearly VMP plan with the Commission so as to continue the review of management activities and targeted expenditures. Therefore, the Department supports the removal of the Company's VMP cost from the RRA.

Q. What is the Department's recommendation in terms of PSNH's VMP budget?

A. As discussed above, the Department is concerned by the amount of additional vegetation management required for storm restoration efforts involving the seven major storms occurring in 2022-2023, calling into question the effectiveness of PSNH's storm mitigation through the VMP. Therefore, the Department cannot support approval of the Company's request for an approximate increase in VMP spending of $7 million over the next four years, and recommends maintaining level funding of PSNH's VMP budget at 2023 levels in the amount of 43 million, until PSNH can demonstrate as part of its next rate case filing, that it has enhanced its focus on storm damage mitigation.

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[92] *Id.* Data Request NECTA 1-009 (Rev. 1).
[93] Testimony of Robert D. Allen at Bates 02239.

VII. SYSTEM RELIABILITY

Q. Does PSNH follow standard industry practices when tracking and evaluating system reliability?

A. Historical reliability statistics (SAIDI, SAIFI) serve as the basis for sound decision-making. Utility-to-utility benchmarking comparisons are updated annually by IEEE and routinely referenced by the industry. It is recognized reliability indices are situational, reflecting different baselines depending on system-specific conditions.

PSNH participates in these benchmarking activities. PSNH also references industry standards (e.g., IEEE) and follows the latest technologies through participation in industry-sponsored events (e.g., conferences) when developing internal standards and operating guidelines. The Department agrees with these Company practices.

Q. Does the Department agree with the PSNH's projected cutoff point for resilience-program-related capital projects?

A. "The Company uses the standard IEEE definition of resilience: "[t]he ability to withstand and reduce the magnitude and/or duration of disruptive events, which includes the capability to anticipate, absorb, adapt to, and/or rapidly recover from such an event"[94] SAIDI inclusive of Major Event Days (referred to as all-in SAIDI) is reported quarterly by PSNH and is considered by the Company to be a good metric for quantifying resilience. Since the industry (IEEE) conducts benchmarking studies that include all-in SAIDI, the Department agrees this is a good metric for quantifying resilience and comparing PSNH performance against industry norms (discussed below).

[94] Attachment JED/RDW/JJD-21 Data Request OCA 6-025.

In their response to Data Request DOE 3-019, PSNH provided a formula for ranking projects, referred to as a "cost efficiency metric," according to the following: (Delta SAIDI) = [(SAIDI pre-hardening) – (SAIDI post-hardening)]/(Project Cost). All eligible projects are shown in Figure 5-6 of Attachment ES-DSP-1 at Bates 2152, totaling $1.551 million. If all projects were to be implemented, the Company projects a 19.5% improvement in all-in (includes MEDs) SAIDI.[95] Prioritizing the highest cost-efficiency scores results in a reduced spending level of $150M to achieve a 4.3% SAIDI improvement, or "for 10% of the spending level, 22% of the reliability benefits are realized."[96] Assuming the capital projects are approved, the Department considers this a reasonable analysis along with the projected SAIDI reliability improvement.

PSNH's all-in SAIDI performance (includes MEDs) for years 2020, 2022, and 2023 is poor (4th quartile) when compared to peer utilities per IEEE benchmarking studies.[97] However, when MEDs are not included, PSNH's SAIDI performance is very good (1st quartile) for years 2020, 2021, 2022, and 2023.[98,99] This suggests focusing capital spending on system hardening projects to improve all-in SAIDI reliability should be a PSNH priority when appropriating and prioritizing capital dollars.

VIII. MAJOR STORM COST RECOVERY

Q. Did the Department review the Major Storm Costs?

A. Yes. The current storm cost recovery was reviewed by the Department in Docket No. DE 24-041. The following disallowances were recommended based on the Direct Joint

[95] *Id.* Data Request DOE 3-019.
[96] *Id.*
[97] *Id.* Data Request DOE 6-110, Table 6-110(b).

Testimony of Toscano, Willoughby, and DeVirgilio[100] and Direct Testimony of Stephen Eckberg[101]:

- $30 million plus associated carrying charges related to the external storm costs in Storm 7, as described in the testimony of Toscano, Willoughby, and DeVirgilio.
- $76,829, as described in Stephen Eckberg's testimony related to the extrapolated results of the audit, which showed a disallowance of $39,183 ($8,533 from Audit Issue 2 and $30,650 from Audit Issue 3).
- $767,448 plus associated carrying charges to account for the appropriate depreciation rate for use in developing the hourly cost for the use of the vehicle storm fleet owned by the Eversource Energy Service Company and use by PSNH and other regulated companies, as described in Stephen Eckberg's testimony.
- Total recommended storm cost disallowance is $30,844,277 leaving a remaining balance of $216,142,712.
- The Commission's decision in Docket DE 24-041 is expected in April or May 2025.

Q. How does PSNH determine whether a storm qualifies as a major storm for purposes of recovery through its Major Storm Recovery Fund?

A. PSNH's major storm definition requires either (1) 10% or more of PSNH's retail customers being without power in conjunction with more than 200 reported troubles, or (2) more than 300 reported troubles during the event. See DE 24-041; Testimony of

[98] *Id.* Data Request DOE 6-110, Table 6-110(a).
[99] *Id.* Data Request PUC 1-014.
[100] Docket DE 24-041, Direct Testimony of Mark P. Toscano, Ronald D. Willoughby, and Joseph J. DeVirgilio, November 22, 2024.
[101] Docket DE 24-041, Direct Testimony of Stephen R. Eckberg, November 22, 2024.

Chen, Landry and Cosentino, Docket Tab 1, which cites Order No. 25,465 at p. 1 (February 26, 2013) from DE 12-320).

Q. How does PSNH define "reported troubles" in determining whether a storm qualifies as a major storm for purposes of recovery through its Major Storm Recovery Fund?

A. As seen in the pending storm cost docket (DE 24-041) PSNH includes both outage events and non-outage events in its reported troubles. This means that not all reported troubles involve customer interruptions. This can be seen by reviewing DE 24-041, Testimony of Desautels, Docket Tab 1 at pp. 67-70 describing a February 3, 2023 Major Storm. This testimony at p. 70 indicates that the storm involved 331 Total Events, which Eversource states exceeded the 300 reported troubles threshold for a Major Storm. However, when examined further, information PSNH provided to the Department shows that this storm involved 165 troubles that involved no outages See DE 24-041, Department Testimony of Toscano, Willoughby and DeVirgilio at 85 (Docket Tab 18). PSNH confirmed in DE 24-041 that it includes non-outage events in its reported troubles. See DE 24-041, Docket Tab 21, Eversource Energy Joint Rebuttal Testimony of Foley, Dickie, Desautels, and Landry at p. 25 (stating trouble events may be outage-related or non-outage related events).

Q. Does the Department support PSNH's inclusion of non-outage events as Reported Troubles?

A. No. The Department takes the position that service needs to be interrupted in order for an event to be a reported trouble for Major Storm classification purposes. This is consistent with Commission approved definitions for Unitil Energy Service (Unitil) and Liberty

Utilities (Granite State Electric) Corp. (Liberty) for Major Storm qualification. For both those companies, the Commission has defined troubles to include customer interruptions. See the Commission Orders quoted below with bold type added for emphasis;

- Concerning Liberty, in DG 13-063, in Order 25,638 (March 17, 2014) at pp. 12-13 the Commission stated: The monies in the Storm Fund shall be used for the recovery of costs associated with major storms experienced by the Company, which are defined as a severe weather event or events causing 30 concurrent troubles (**interruption events** occurring on either primary or secondary lines) and 15 percent of customers interrupted or 45 concurrent troubles.

  More recently for Liberty, the Commission, in DE 21-073, Order 26,724 (November 18, 2022) at p. 6 stated: We interpret the term "interruption event" as used in the Settlement Agreement's definition of "troubles" to be the **loss of power** to any conductor serving a customer or customers from the distribution system.

- For Unitil, in Order No. 25, 214 (April 26, 2011) at p. 10 the Commission stated: Qualifying major storms include severe weather events causing 16 concurrent troubles (**interruptions events** occurring on either primary or secondary lines) and 15 percent of customers interrupted or 22 concurrent troubles, either in the Capital or Seacoast regions....

Q. Has the Department found a PUC decision concerning PSNH where the Commission defines troubles as involving interruptions?

A. No, we have not.

Q. What does the Department recommend in this docket?

A. The Department recommends that going forward for PSNH, the Commission define troubles to include only events where there are customer service interruptions. Further, customer service interruptions should be defined as interruptions lasting more than five minutes - that is interruptions of service that are not automatically restored and require restoration services on site. Such clarification would help avoid debate over the meaning of reported troubles and would put all three of New Hampshire's electric utilities on essentially the same footing. It also would recognize that recent automated restoration capabilities often result in power being restored in under five minutes without the dispatch of a repair crew to restore power.

Q. Does the Department have any other recommendation to make in this docket with regard to major storms?

A. Yes. In order to foster a more efficient process of comparing weather and system damage in different storms, and also storm restoration costs, the Department proposes that the Company complete the attached storm metric chart for each storm it asserts qualifies as a major storm. See attached Storm Metric Chart, Attachment JED/RDW/JJD-22.

Q. What does the Department recommend in terms of rate treatment in this rate case involving the remaining storm cost balance?

A. PSNH places the total unrecovered storm cost balance as of August 1, 2025, at $246,986,989.[102] Deducting the Department's recommended disallowance of $30,844,277 leaves a total storm cost balance of $216,142,712 recoverable in rates. PSNH is proposing to amortize its balance of $246,986,989 over five years with carrying

[102] Testimony of Botelho and Chen (Permanent Rates) at Bates 1617.

charges equal to its proposed weighted average cost of capital at 6.96%.[103] This results in an annual amortization amount in base rates of $54,695,387. The Department does not support the Company's proposed five-year amortization period and views it as too severe resulting in rate shock for the rate payer. Given the historically high and unprecedented storm cost amount in excess of $200 million, the DOE proposes that PSNH book the amount of $216,146,937 as a regulatory asset to be amortized over a fifteen-year period with a carrying charge equal to the ten-year U.S. Treasury rate as published in the Money Rates section of the Wall Street Journal, currently 4.5%, to be adjusted quarterly. This results in an annual amortization amount of approximately $15,058,824. The Department proposes that this amount be recovered through the Storm Reserve Adjustment Mechanism.

IX. 2024 POST TEST YEAR CAPITAL ADDITIONS

Q. PSNH has proposed that the Commission should authorize the inclusion of 2024 capital additions into permanent rates effective August 1, 2025. What is the Department's response to that proposal?

A. The Commission should reject the proposal. PSNH states that the 2024 capital additions will have been in service for a year prior to the implementation of new rates on August 1, 2025, thus a post-test year change should be allowed by those investment in permanent rates.[104] The Company represents that it will update the record by providing an initial set of project documentation by February 17, 2025, and follow-up with a more complete set

[103] *Id.* at Bates 1617.
[104] Testimony of Landry, Deveraux and Dickie at Bates 2316.

by April 15, 2025.[105] PSNH later represented in its response to Information Request PUC TS1-001 that it could accelerate those filings by providing initial documentation by the end of January 2025, and a complete filing by March 7, 2025.[106] However, in the same response to the PUC's data request, the Company appears to have backed away from its proposal and instead has proposed to either shift the 2024 capital additions to the first K-Bar adjustment or have the Commission convene a separate proceeding running in parallel with the rate case schedule in order to implement the base rate change on August 1, 2025.[107] The Department finds both proposals to be completely unworkable. In the first instance, by filing project documentation in late winter/early spring 2025 makes it impossible for the Department to perform a thorough review of those projects given that the time for discovery and the filing of testimony will have passed and parties are scheduled to undertake settlement negotiations and/or prepare for hearings within that same time period. The second alternative proposed by the Company is equally unworkable as the Department does not support the PBR plan with the K-Bar mechanism, which excludes any form of prudence review, and thus a parallel proceeding would have to be initiated while the rate case is still ongoing, again limiting time for a thorough prudence review. As a result, the Department strongly recommends that the Commission reject PSNH's proposals and instead allow for one step adjustment limited to non-growth, non-blanket projects only, and allowing for a 120-day review period by the Department, which is 30 days longer than what has been the practice for the last several years.

[105] *Id.*
[106] Attachment JED/RDW/JJD-23 Data Request PUC TS1-001.
[107] *Id.*

X. PERFORMANCE BASED RATE PLAN

Q. Does the Department support PSNH's Performance Based Rate Plan (PBR) proposal as it pertains to future capital investments and additions to rate base?

A. The Department does not support PSNH's PBR as proposed and instead recommends that the Commission retain a more traditional rate-making scheme where additions to rate base are reviewed comprehensively in periodic rate cases, resulting in just and reasonable rates. In the Department's view this is particularly important given the Department's historical observations that PSNH's capital investments have been overly aggressive, in some cases poorly managed, and lacking effective cost control. Such characteristics have been discussed extensively in PSNH's prior rate case (by then PUC Staff), in the project reviews outlined by the Department earlier in this testimony and constituted the impetus for conducting the BPA of the Company's processes in 2022. One of the elements under PSNH's PBR proposal is that step adjustments are discontinued and prudence reviews of those capital investments only take place in the next rate case after completion of the fourth or fifth year of the PBR period.[108] The Department rejects this proposal because it would make prudence reviews overly burdensome given the passage of time and the potential for subject matter witnesses to be unavailable to testify or if available to testify, unable to recollect key facts or events. In addition, of particular concern is the proposed K-bar mechanism which is described as a capital revenue supplement intended to account for needed incremental increases in capital expenditures over the PBR period based on a three-year rolling average of prior levels of capital investment.[109] The three-year rolling average of capital investments is intended to provide a representative distribution rate

[108] Testimony of Foley, Coates, and Horton at Bates 1374-1375, 1379.
[109] *Id.* at Bates 1379 and 1387.

base whereby K-bar relies on the average growth of recent of actual plant additions.[110] The problem with this part of the mechanism is that PSNH will initially be is using a three-year rolling average whereby rate base has been grossed up and thus skewed by the extraordinary events and market impacts of COVID in 2022 and 2023, resulting in an increase of nearly 33% over 2021 rate base of $148 million.[111] Thus the Company shows a significant increase in rate base growth over the next three years as compared with $196 million in 2023, $251 million in 2026, and $301 million in 2028.[112] Given that the effects of COVID are waning, using the last three years of expenditures as a reliable indicator of future rate base growth appears to be an unreasonable basis for growth rates going forward. As covered in greater detail by the Department's witness Nicholas Crowley and Daniel McLeod, the K-bar supplement allows PSNH to collect revenue that may exceed the rate of growth taking place in the industry.[113] In addition, by including K-bar in the PBR as an additional mechanism, PSNH is allowed to deviate from a pure price cap formula that is a part of most PBR plans.[114] It is also important to note that use of K-bar is not widespread and is currently only approved in Massachusetts and Alberta, Canada.[115]

As stated above, the Department does not support the Company's PBR proposal, not only because of the K-bar mechanism but also because PBR is completely new to New Hampshire and the Department would like time to observe developing results from other jurisdictions, e.g. Massachusetts, before considering adoption of this type of rate making.

[110] *See* Attachment JED/RDW/JJD-24 DOE Data Responses DOE 6-121 and 14-263.
[111] *Id.* Data Responses DOE 14-262 and 6-121.
[112] *Id.* and Testimony of Crowley and McLeod at Bates 40.
[113] Testimony of Crowley and McLeod at Bates 20.
[114] *Id.* at Bates 32.
[115] *Id.* at Bates 33.

In terms of an alternative, the Department would support only one step adjustment increase for limited capital investments made in 2024 or 2025 involving only non-growth, non-blanket projects with a 120-day review period for prudency reviews which is 30 days longer than was the process in previous step adjustment proceedings. For these reasons, the Department recommends that the Commission deny the Company's proposal for PBR. However, in the event that the Commission decides to adopt PBR, it is the Department's position that the Commission should design such a plan according to the recommendations of Mr. Crowley and Mr. McLeod and not accept the plan proposed by PSNH.

XI. CONCLUSIONS AND RECOMMENDATIONS

Q. Please summarize the Department's findings.

A. In summary, based on the extensive review outlined above, the Department is unable to find that PSNH acted prudently in terms of planning and decision making or providing sufficient analysis to support some of the capital projects reviewed, as summarized below:

- The Audit Report cites several instances in which PSNH's overhead/burden calculations for capital projects appeared to be excessive, frequently contributing to the large cost overruns for some projects. The Department observed similar occurrences in its current and past reviews and concurs with Audit's finding.
- Upon examining the evidence in this rate case, the Department has lingering concerns as to how effective PSNH has been in embracing and implementing the recommendations of the BPA.

- The Department found little evidence that PSNH's project planning and management constitutes an efficient process or that proper processes and controls are in place for reasonable and prudent decision making.
- PSNH's performance continues to be questionable in the areas of observing least cost principles, sufficient financial analysis, or implementing consistent cost controls.
- PSNH has adopted a very broad approach to determining project completion and applying the used and useful standard. Placing individual pieces and components of a project in plant-in-service while the project is still progressing and equating that with completion is untenable and the Department will not support it.
- Reimbursable projects should not be booked to rate base and should be treated in a similar manner as CIAC.
- PSNH's procurement and RFP process does not appear to be a truly fair or impartial process and is not open to a diverse group of providers.
- Implementation of the Company's VMP has not been effective in terms of storm damage mitigation as evidenced in Docket DE 24-041.
- PSNH's PBR proposal does not give adequate consideration to efficient capital planning, cost control, or the necessity of prudence reviews by regulators.
- The delays by PSNH in providing key documents in discovery, or not providing them at all, hampered the Department's review in this case.

Q. Please summarize the Department's recommendations as a result of its analysis of PSNH's revenue requirement?

A. First, the Department incorporates the recommendations of witnesses Mullinax and Woolridge. Ms. Mullinax recommends a total reduction of $95.5 million from the proposed revenue requirement based on her extensive review of PSNH's expenses and the Department's recommended adjustments, and Professor Woolridge recommends that PSNH's appropriate cost of capital should be 6.8% and that its ROE should be 9.5%. Second, the Department has several additional recommendations based on its review of specific areas of this rate case: The Department recommends level funding of in the amount of $43 million for the Vegetation Management program until the Company's next rate case. The Department also recommends that the Commission disallow $30,844,277 from PSNH's proposed storm cost recovery of $246,986,989 and require the Company to amortize the remaining balance of $216,142,712 over fifteen years at a carrying cost rate equal to the ten- year U.S. Treasury rate to be recovered through the Storm Reserve Adjustment Mechanism. Related to storm costs, the Department recommends that PSNH utilize the Department's Storm Metric Chart as part of its storm reporting and adopt the recommended definitions of "troubles" and "interruptions." The Department also recommends that the Commission reject PSNH's proposed PBR plan for the rate years 2025 through 2028, given the deficiencies found in the plan as described above. Lastly, pursuant to the findings of the Audit Report involving the continuing escalation of indirect/overhead costs, the Department recommends that the Commission open a separate docket for the purposes of conducting an investigation of PSNH's allocation of indirect costs to be informed by an in-depth audit by the Audit Division targeting the

Company's indirect rate allocation process and the how the rates are calculated to determine whether or not the process is accurate and comparable to processes utilized by other similarly situated utilities.

Q. **Does that conclude your testimony?**

A. Yes, it does.