

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

November 21, 2006 - 9:25 a.m.
Concord, New Hampshire

RE: DE 06-125
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE:
Proposed Default Energy Services and
Default Energy Service Rate.

PRESENT: Chairman Thomas B. Getz, Presiding
Commissioner Graham J. Morrison
Commissioner Clifton C. Below

Christine True, Clerk

APPEARANCES: Reptg. Public Service Co. of New Hampshire:
Gerald M. Eaton, Esq.

Reptg. Constellation NewEnergy, Inc.:
Steven V. Camerino, Esq.

Reptg. Residential Ratepayers:
Meredith Hatfield, Esq., Consumer Advocate
Office of Consumer Advocate

Reptg. PUC Staff:
Suzanne G. Amidon, Esq.

Court Reporter: Steven E. Patnaude, CCR

ORIGINAL

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 STEPHEN R. HALL
 RICHARD C. LABRECQUE

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1	Filing containing the Testimony of Robert A. Baumann and Stephen R. Hall (09-08-06)	9
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P R O C E E D I N G S

1
2 **CHAIRMAN GETZ:** Then, we will open the
3 hearing in docket DE 06-125. On September 8, 2006, Public
4 Service Company of New Hampshire filed with the Commission
5 a petition to establish its Default Energy Service rates
6 for bills rendered on or after January 1, 2007. And, an
7 order of notice was issued on September 20, setting a
8 hearing -- a prehearing conference for October 5. And,
9 subsequent to that, a secretarial letter was issued
10 approving a procedural schedule setting a hearing for this
11 morning. And, we have a revised filing that was submitted
12 by Public Service Company of New Hampshire on November 17.

13 Can we take appearances please.

14 **MR. EATON:** For Public Service Company
15 of New Hampshire, my name is Gerald M. Eaton. Good
16 morning.

17 **CHAIRMAN GETZ:** Good morning.

18 **MR. CAMERINO:** Good morning,
19 Commissioners. Steve Camerino, from McLane, Graf,
20 Raulerson & Middleton, on behalf of Constellation
21 NewEnergy, Inc.

22 **CHAIRMAN GETZ:** Good morning.

23 **CMSR. MORRISON:** Good morning.

24 **CMSR. BELOW:** Good morning.

1 **MS. HATFIELD:** Good morning. Meredith
2 Hatfield, for the Office of Consumer Advocate, and with me
3 today is Ken Traum, Assistant Consumer Advocate.

4 **CHAIRMAN GETZ:** Good morning.

5 **CMSR. MORRISON:** Good morning.

6 **CMSR. BELOW:** Good morning.

7 **MS. AMIDON:** Good morning. Suzanne
8 Amidon, for the Commission Staff. And, with me today is
9 Steve Mullen, who is a Utility Analyst with the Electric
10 Division.

11 **CHAIRMAN GETZ:** Well, good morning.
12 And, I'll note as well that there was direct testimony
13 filed by Mr. Traum on November 7. Mr. Eaton, are you
14 prepared to go forward with your witness?

15 **MR. EATON:** Yes. I'd like to call a
16 panel of witnesses, Stan Puzio, Steve Hall, and Rick
17 Labrecque -- Richard Labrecque.

18 (Whereupon **Stan Puzio, Stephen R. Hall**
19 and **Richard C. Labrecque** was duly sworn
20 and cautioned by the Court Reporter.)

21 **STAN PUZIO, SWORN**

22 **STEPHEN R. HALL, SWORN**

23 **RICHARD C. LABRECQUE, SWORN**

24 **DIRECT EXAMINATION**

[Witness panel: Puzio|Hall|Labrecque]

1 BY MR. EATON:

2 Q Mr. Puzio, would you please state your name for the
3 record.

4 A (Puzio) Stan Puzio.

5 Q For whom are you employed?

6 A (Puzio) Northeast Utilities.

7 Q What is your position and what are your duties?

8 A (Puzio) I'm Manager of Revenue Regulation and Load
9 Resources. My current responsibilities include all
10 revenue requirements issues associated with Public
11 Service of New Hampshire and other regulatory issues
12 with CL&P, Western Mass. Electric Company, and Yankee
13 Gas.

14 Q Do you work on matters involving Public Service
15 Company of New Hampshire?

16 A (Puzio) Yes.

17 Q And, how long have you been involved with those
18 matters?

19 A (Puzio) Over twelve years.

20 Q What is your educational background?

21 A (Puzio) I have a Bachelor's of Science degree in
22 Accounting from Central Connecticut State University
23 and a Master's of Science degree from Rensselaer
24 Polytechnic Institute.

[Witness panel: Puzio|Hall|Labrecque]

1 Q Mr. Puzio, have you ever testified before this
2 Commission?

3 A (Puzio) Yes, I did, earlier this morning, in docket
4 DE 06-134.

5 Q Now, I place in front of you a document with a date
6 of September 8th, 2006. I wonder if you could
7 identify that please.

8 A (Puzio) Yes. This is the proposed Default Energy
9 Service rate that was filed on September 8.

10 Q In that document is a -- is the prefiled testimony of
11 a Robert A. Baumann. Do you recognize that?

12 A (Puzio) Yes, I do.

13 Q Did you assist in the preparation of that testimony?

14 A (Puzio) I did.

15 Q Is it true and accurate to the best of your knowledge
16 and belief?

17 A (Puzio) Yes, it is.

18 Q And, do you have any corrections to make to that
19 testimony?

20 A (Puzio) I have none.

21 Q Do you adopt it as your own sworn testimony today?

22 A (Puzio) Yes.

23 Q Mr. Hall, could you please identify yourself for the
24 record.

[Witness panel: Puzio|Hall|Labrecque]

1 A (Hall) My name is Stephen R. Hall.

2 Q What is your position and for whom are you employed?

3 A (Hall) I'm Rate and Regulatory Services Manager for
4 PSNH.

5 Q What is your duties in that position?

6 A (Hall) I'm responsible for regulatory interface for
7 pricing and for tariff and rate administration.

8 Q Have you ever testified before this Commission?

9 A (Hall) Yes, I have.

10 Q Did you prepare testimony in this proceeding?

11 A (Hall) Yes, I did.

12 Q Is it part of that same package that Mr. Puzio
13 identified?

14 A (Hall) Yes, it is.

15 Q And, what was the purpose of your testimony?

16 A (Hall) The purpose of my testimony was to present an
17 anti-gaming mechanism proposal, as required by the
18 Commission in their order in docket DE 05-164.

19 **MR. EATON:** Mr. Chairman, I ask for your
20 direction, if you would like this whole package to be
21 marked as "Exhibit 1" or would you like the two separate
22 testimonies, the Baumann/Puzio testimony identified as
23 "Exhibit 1" and the Hall testimony identified as "Exhibit
24 2"?

[Witness panel: Puzio|Hall|Labrecque]

1 **CHAIRMAN GETZ:** Let's mark the entire
2 package as 'Exhibit 1".

3 (The document, as described, was
4 herewith marked as **Exhibit 1** for
5 identification.)

6 BY MR. EATON:

7 Q Mr. Labrecque, could you please state your name for
8 the record.

9 A (Labrecque) Richard Labrecque.

10 Q For whom are you employed and what is your position?

11 A (Labrecque) I work at Northeast Utilities. I'm a
12 Principal Engineer in the Wholesale Power Contracts
13 Department.

14 Q And, what are your duties in that position?

15 A (Labrecque) To provide support for the various
16 wholesale power procurements that Northeast Utilities
17 performs, including the procurement of supplemental
18 energy and capacity for PSNH.

19 Q Have you previously testified before this Commission?

20 A (Labrecque) Yes.

21 Q Did you assist in the preparation of the information
22 that supports the proposed Default Service Energy
23 Service rate for 2007?

24 A (Labrecque) Yes.

[Witness panel: Puzio|Hall|Labrecque]

1 Q And, what was your involvement?

2 A (Labrecque) The energy simulation, the forecasting of
3 expenses for the various supply resources we use to
4 serve Energy Service.

5 Q Did you file prefiled written testimony?

6 A (Labrecque) I believe I filed a tech statement with
7 -- co-sponsored by Mr. Baumann.

8 Q Do you have in front of you a document that is dated
9 November 17th, 2006?

10 A (Labrecque) Yes.

11 Q And, could you identify that document?

12 A (Labrecque) It's toward the back, it starts -- it's
13 the final three pages of that document, titled
14 "Technical Statement of Richard C. Labrecque and
15 Robert A. Baumann".

16 Q And, did you assist in the preparation of that
17 technical statement?

18 A (Labrecque) Yes.

19 Q And, the entire document, what does that propose?

20 A (Labrecque) It explains the changes in the forecasted
21 energy expense between the draft filing in September
22 and this final filing today.

23 Q And, Mr. Puzio, could you explain what the beginning
24 of that November 17th document describes, the pages

[Witness panel: Puzio|Hall|Labrecque]

1 before Mr. Labrecque's technical statement.

2 A (Puzio) This includes the updated Energy Service rate
3 and the so-called "Default Energy Service rate" that
4 we filed on November 17th.

5 **MR. EATON:** Thank you. Could we have
6 that document marked as "Exhibit 2" for identification.

7 **CHAIRMAN GETZ:** So marked.

8 (The document, as described, was
9 herewith marked as **Exhibit 2** for
10 identification.)

11 BY MR. EATON:

12 Q Mr. Puzio, could you summarize PSNH's request for a
13 Default Energy Service rate beginning on January 1st,
14 2007?

15 A (Puzio) Yes. The Energy Service rate that currently
16 is being billed by PSNH that began on July 1, 2006 is
17 8.18 cents per kWh. The proposed 2007 rate is 8.59
18 cents per kWh, an increase of 0.41 cents per kWh.
19 This increase impacts PSNH's overall rates by
20 three percent, essentially an increase to the rates,
21 combined with the stranded cost rate decrease that we
22 testified to earlier this morning, the overall rates
23 for PSNH will increase one percent. The primary
24 reason for the increases is the fact that the current

[Witness panel: Puzio|Hall|Labrecque]

1 rate in 2007 has a lower prior period adjustment. In
2 July 2006, we filed an Energy Service rate that had
3 \$36 million overrecovery for the period of February
4 through June 2006. And, that really decreased the
5 rate, because the fundamentals of the market energy
6 rates are essentially slightly lower now than they
7 were in 2006. However, we don't have that large
8 prior period overrecovery to mitigate that rate.

9 Q What do you predict for an over- or underrecovery for
10 the year 2006 in the Energy Service rate?

11 A (Puzio) Currently, in this filing, in Exhibit 2, has
12 approximately 10.9 million overrecovery for the
13 period of July through December. It has actual data
14 to -- through October and a projection for November
15 and December.

16 Q And, how does \$10 million compare to the total energy
17 cost that PSNH collects through its Default Energy
18 Service rate?

19 A (Puzio) In proportion to the total rate?

20 Q Yes.

21 A (Puzio) It's approximately 0.1 cent per kWh. It's a
22 little higher.

23 Q Mr. Hall, could you explain or summarize your
24 testimony regarding the anti-gaming mechanism.

[Witness panel: Puzio|Hall|Labrecque]

1 A (Hall) Certainly. I start by defining what "gaming"
2 means. And, the definition of "gaming" is different
3 to different people. And, I know Mr. Traum submitted
4 testimony with a definition of "gaming", and his
5 definition differs from mine. That's not to say that
6 I'm right and he's wrong, it's just a different
7 opinion as to what constitutes "gaming". The way I
8 define "gaming" is an arrangement between a customer
9 and a supplier where the supplier effectively relies
10 on PSNH as a hedge for its energy costs. And, what I
11 mean by that is that I view "gaming" as a situation
12 where a supplier retains the right to require a
13 customer to return to Energy Service from PSNH during
14 times when the market price of energy is particularly
15 high. And, the supplier pays the customer the
16 difference between the contracted price between the
17 customer and the supplier and PSNH's Energy Service
18 rate.

19 I go on to say in my testimony that we
20 have not observed any actions that we would view as
21 "gaming". We only recently have had any significant
22 customer migration. Customer migration began in
23 large part in the early part of 2006, the March/April
24 time frame, and continued essentially through

[Witness panel: Puzio|Hall|Labrecque]

1 September, where upwards of 100 customers, large
2 customers, left PSNH's Energy Service and took energy
3 service from a competitive supplier. So, my
4 conclusion is that we don't believe that a gaming --
5 anti-gaming mechanism today is necessary.

6 Nevertheless, in the event that the
7 Commission does decide to adopt an anti-gaming
8 mechanism, we're recommending that it be somewhat
9 innocuous and not draconian. And, what we're
10 proposing is that, should the Commission go down that
11 road, we're suggesting that the anti-gaming mechanism
12 be that, if the customer returns to PSNH from a
13 particular competitive supplier, they can't then go
14 back to that same competitive supplier within a six
15 month time frame. I think that would prevent the
16 type of gaming that I define in my testimony.

17 And, some of the caveats that I had in
18 my testimony with regard to any anti-gaming proposal
19 is, you want to be careful that it doesn't result in
20 a situation where customers are reluctant to go to
21 the competitive market in the first place. If you
22 get an anti-gaming mechanism that is really harsh or
23 will cost customers some money if they happen to jump
24 back and forth, then customers may not even want to

[Witness panel: Puzio|Hall|Labrecque]

1 take energy service from a competitive supplier to
2 begin with. They may just stay with PSNH. And,
3 we're -- we encourage customers to take service from
4 the competitive market, to the extent that they have
5 opportunities available to them. And, quite frankly,
6 that should be encouraged. So, I would urge the
7 Commission, if they do decide to adopt a mechanism,
8 that be careful in what it is that you adopt, because
9 you don't want to set up a situation that acts as a
10 barrier to a customer going to the competitive
11 market.

12 Alternatively, what I would really
13 recommend is that we simply continue to monitor the
14 situation and provide information to the Commission
15 and the parties with regard to customer migration, so
16 that we can assess over time whether gaming is
17 occurring.

18 Q Mr. Hall, what would be your position if the
19 Commission were to ask you to determine what the
20 customer's motive was for moving off or moving back
21 to the PSNH system?

22 A (Hall) I don't think we could do that. Because it
23 really isn't an objective standard, and we'd have to
24 really get into what a customer's thinking was with

[Witness panel: Puzio|Hall|Labrecque]

1 regard to moving back and forth. So, I'm not sure,
2 in fact, I don't think that it would be possible for
3 me to determine why a customer went from PSNH to a
4 competitive supplier and back.

5 Q So, would you favor a rather objective standard, no
6 matter what it is, that PSNH could administer easily
7 and objectively then, just a hard line of "yes" or
8 "no"?

9 A (Hall) Absolutely. And, the anti-gaming mechanism
10 that I set forth, and, frankly, the one that Mr.
11 Traum sets forth in his testimony, those are
12 objective measurements. They're relatively easy to
13 administer. But, like I said earlier, be careful in
14 what you implement.

15 Q Do you have anything more to add to your testimony,
16 Mr. Hall?

17 A (Hall) I don't.

18 Q Mr. Labrecque or Mr. Puzio, do you have anything to
19 add to your testimony?

20 A (Puzio) I don't.

21 A (Labrecque) No.

22 **MR. EATON:** Thank you very much. The
23 witnesses are available for cross-examination.

24 **CHAIRMAN GETZ:** Thank you. Mr.

[Witness panel: Puzio|Hall|Labrecque]

1 Camerino.

2 **MR. CAMERINO:** Thank you, Mr. Chairman.
3 I think my questions are for Mr. Puzio, but it may be that
4 Mr. Labrecque is better suited to at least these initial
5 questions.

6 **CROSS-EXAMINATION**

7 BY MR. CAMERINO:

8 Q Mr. Puzio, if I'm looking at the updated filing
9 correctly, you're indicating that, for the period
10 July through December of this year, the Company is
11 projecting an overcollection of Energy Service
12 revenues of about \$10.9 million, is that correct?

13 A (Puzio) That's correct.

14 Q All right. Could you just walk me through slowly the
15 components that make that up? In other words, lower
16 sales, higher costs, that type of thing, just
17 identify roughly what the components of that are, and
18 maybe put dollar amounts on them if you can?

19 A (Puzio) In essence, the energy market softened in the
20 second half of 2006. You recollect PSNH filed for a
21 rate for July through December that contained both a
22 prior period underrecovery of 36 million and a
23 forecast overrecovery of about 10 million. However,
24 at that time, the markets were very volatile, as

[Witness panel: Puzio|Hall|Labrecque]

1 indicated in the first part of 2006. And, I believe
2 the Commission decided to just reflect the actual
3 overrecovery for the first half of the year, and not
4 reflect the forecasted overrecovery in the second
5 half of the year, because it wasn't known whether it
6 would happen or not. And, in actual, the markets
7 continued to be soft as we had forecasted it back
8 then.

9 Q So, I want to restate what you said, and if I've got
10 this wrong, let me know. In the first half of the
11 year, there was an overrecovery of approximately
12 \$36 million, which resulted from lower than
13 anticipated energy costs, is that correct?

14 A (Puzio) Yes.

15 Q And, in the second half of the year, the almost
16 \$11 million overrecovery is also largely the result
17 of lower than projected energy costs?

18 A (Puzio) That's correct.

19 Q Okay. I think my other questions then are for Mr.
20 Hall. Mr. Hall, first of all, would you agree that a
21 significant, if not the most important, goal of the
22 restructuring of the electric markets in New
23 Hampshire was to create a competitive electric supply
24 market?

[Witness panel: Puzio|Hall|Labrecque]

1 A (Hall) That was definitely one of the goals. I'm not
2 sure if it was "the most significant", but I'll
3 accept the fact that that was a goal.

4 Q A significant goal?

5 A (Hall) I'd have to go back and review the law, but
6 I'll accept that.

7 Q Okay. Is it your view that that market, at least up
8 until now, has been slow to develop?

9 A (Hall) Yes.

10 Q Are you concerned about creating obstacles to the
11 creation of such a market?

12 A (Hall) Yes, I am. And, that's the reason for my
13 admonition with respect to the -- to what type of
14 mechanism, if any, is implemented with regard to
15 anti-gaming.

16 Q I think you indicated that this year approximately
17 135 customers have taken supply from competitive
18 suppliers?

19 A (Hall) Yes, sir.

20 Q Prior to this year, approximately how many customers
21 have taken supply from competitive suppliers?

22 A (Hall) I would say a handful. I don't have the exact
23 number, but it was nowhere near 135.

24 Q In total, in all of the time since PSNH first entered

[Witness panel: Puzio|Hall|Labrecque]

1 the competitive era?

2 A (Hall) Yes, it might be a few dozen.

3 Q Okay. Does your proposal, as submitted to the
4 Commission, and I don't want to -- maybe it's not
5 your proposal, the plan that you identify in your
6 testimony, does that have any mechanism for dealing
7 with what I'll call "administrative errors", if
8 somebody is dropped from a supplier by error of the
9 supplier or by error of the utility, is there
10 anything that addresses that situation?

11 A (Hall) Not in what -- Not in what I proposed, no.

12 Q And, have you seen any of the kind of gaming behavior
13 that you described, and when I say "you", has the
14 Company seen any of the gaming behavior that you
15 described earlier in your testimony, any evidence
16 that that type of behavior is occurring to date?

17 A (Hall) No.

18 **MR. CAMERINO:** Thank you. That's all I
19 have.

20 **CHAIRMAN GETZ:** Ms. Hatfield.

21 **MS. HATFIELD:** Thank you.

22 BY MS. HATFIELD:

23 Q I think my first question is for Mr. Puzio. And, I'm
24 looking at Exhibit 2, which is the updated filing, on

[Witness panel: Puzio|Hall|Labrecque]

1 Attachment RAB-1, Page 1. I'm wondering if you can
2 please tell us, on line 27, what is the forecasted
3 retail megawatt-hour sales for 2007?

4 A (Puzio) We have shown 8,169,970 megawatt-hours,
5 assuming that we have no migration.

6 Q And, actually, that leads right to my next question,
7 which is for Mr. Labrecque. And, looking at data
8 responses to OCA data requests that were filed on
9 October 23rd, this would be a response to OCA-002.
10 And, that's also "Attachment 2" to Mr. Traum's
11 testimony. And, Mr. Labrecque, in that response, you
12 first, I believe, say that your base assumption is
13 that 100 percent of customers currently receiving
14 energy service from a competitive supplier, that
15 you're assuming that they'll return to PSNH Energy
16 Service on the 1st -- January 1st of 2007, is that
17 correct?

18 A (Labrecque) That's correct.

19 Q But then you go on further down in your response.
20 And, I'm wondering if you can talk about Point Number
21 4 and discuss how that aligns with the earlier part
22 of your response that we just discussed?

23 A (Labrecque) Point Number 4, the point I'm trying to
24 make there is that, if we have a mild winter or even

[Witness panel: Puzio|Hall|Labrecque]

1 a normal winter, such that some of the -- some of the
2 risk premiums are removed from the forward energy
3 market, we could get to late March, early April, like
4 we did in 2006, in 2007, where the competitive costs
5 for energy service may have declined to eight and a
6 half cents, eight cents, seven and a half cents,
7 something lower than our filed rate request, such
8 that there could be a repeat in '07 of what happened
9 in '06. And, when I say "there could be", I mean
10 it's not a farfetched scenario. That's where I think
11 I used the word "significant" likelihood that that
12 could happen.

13 Q I think, in Number 4, what you say is "PSNH considers
14 the potential for migration to be significant", is
15 that --

16 A (Labrecque) That's correct.

17 Q Okay. Turning to Mr. Hall, I believe that you just
18 testified that there are different ways to define
19 "gaming". And, I think you said that perhaps you and
20 Mr. Traum disagree in your definitions. And, I did
21 just want to point out that, in Mr. Traum's
22 testimony, which we'll be discussing when he's on the
23 stand, he uses the definition that the Commission
24 actually set forth in their order in DE 05-164. And,

[Witness panel: Puzio|Hall|Labrecque]

1 I was wondering if you were aware that that was
2 actually the Commission's definition of "gaming"?

3 A (Hall) I'm aware of that. I still don't agree with
4 it.

5 Q I think you also just testified, in response to a
6 question from Mr. Camerino, that you agree that one
7 of the major goals of restructuring was to create a
8 competitive energy market, is that correct?

9 A (Hall) Yes.

10 Q I think also, though, that the Legislature made clear
11 in the restructuring statute that, while that was
12 clearly one of the main goals, that the Legislature
13 also clearly stated that it should be implemented,
14 and I'm quoting from RSA 374-F:3, VI, that "it should
15 be implemented in a manner that benefits all
16 consumers equitably and does not benefit one customer
17 class to the detriment of another." So, would you
18 agree that, while a competitive market is clearly a
19 major goal, that we also have to be careful about who
20 pays for the development of that competitive market?

21 A (Hall) Yes. I viewed that portion of the law as
22 applying to something different. I viewed that as
23 applying more to the overall rate decrease that was
24 implemented when restructuring took effect.

[Witness panel: Puzio|Hall|Labrecque]

1 Q So, are you saying that, if there are costs involved
2 with developing a competitive market, it's okay if
3 one particular customer class pays for those costs?

4 A (Hall) Well, there's always discrimination between
5 classes. That is a fact of life when it comes to
6 ratemaking. There is -- There are always subsidies.
7 Some customer classes always subsidize other classes.
8 Some particular customers subsidize other customers
9 in their class. The task for the Commission to
10 determine is whether that discrimination is undue.
11 And, they have to assess all of the factors and make
12 a decision.

13 MS. HATFIELD: Thank you. I don't have
14 any further questions.

15 CHAIRMAN GETZ: Ms. Amidon.

16 MS. AMIDON: Thank you.

17 BY MS. AMIDON:

18 Q Mr. Hall, I thought -- did you say, in response to
19 Steve Camerino's question, that there were dozens of
20 migrations in February of 2006?

21 A (Hall) Yes. Yes, there may have been a couple of
22 dozen, off and on. The reason that I say that is
23 that I know that one customer, in particular, had
24 several accounts, a handful of which were Small

[Witness panel: Puzio|Hall|Labrecque]

1 General Service and Residential. That customer took
2 self supply service, which I kind of lump into the
3 same category as competitive supply, service from a
4 competitive supplier. I wasn't technically accurate
5 in my response to Mr. Camerino. It wasn't all
6 customers who have gone to competitive suppliers.

7 Q Looking at Exhibit 1, at your testimony, Page 4,
8 there's a statement that says "From February 2006
9 through September 2006, 135 customers ceased taking
10 energy service from PSNH and began taking energy
11 service from the competitive market", and I won't
12 read the rest of the sentence. Is that what you're
13 talking about? And, how do you explain the 135 with
14 the "dozens" that you referenced here, I just want to
15 understand?

16 A (Hall) Well, the 135 are the number of customers who
17 ceased taking service from PSNH in the time frame
18 that I described, and a customer is an account.

19 Q Okay.

20 A (Hall) You could have one company or one entity with
21 more than one account. So, maybe that's the reason
22 for the confusion. And, with regard to prior to
23 2006, I think I said "maybe a couple of dozen". It
24 might have been less. I'm basing it on my

[Witness panel: Puzio|Hall|Labrecque]

1 recollection. I don't know the exact number. The
2 only point I was making is it wasn't anywhere near
3 100.

4 Q Do you know how much it represented in terms of power
5 usage, megawatt-hours?

6 A (Hall) Amount of power, megawatt-hours? I don't have
7 that information, but it was a small fraction of the
8 amount that occurred in 2006.

9 Q I'd like to turn now to Mr. Labrecque. And, in
10 reference to the attachment to Mr. Traum's testimony,
11 which is OCA Data Request Set 1, Number 002. If you
12 could go to Item Number 6 in that response. This is
13 in response to a question about "How does PSNH plan
14 purchases regarding -- recognizing the possibility of
15 migration due to customer choice?" In this response
16 you are talking about two alternatives to acquire
17 power based on these unknowns. What decision did
18 PSNH ultimately make with respect to these two
19 alternatives?

20 A (Labrecque) We're still working on the call option
21 strategy. That is our preferred path right now.
22 And, we're in negotiation with a supplier for just
23 the type of product we feel would best address this
24 situation.

[Witness panel: Puzio|Hall|Labrecque]

1 Q So, you have chosen Option (b)?

2 A (Labrecque) Option (b) is our preferred path right
3 now.

4 Q When do you make a final decision?

5 A (Labrecque) If we're able to reach an agreement with
6 this counterparty, hopefully, in the next few days, a
7 week, we would execute, you know, a series of
8 contracts to implement this proposal. If we are not,
9 we'd fall back to something, some other strategy.

10 Q Okay. I don't know if this is for Mr. Puzio or
11 Mr. Labrecque. But, if you look at Exhibit 2, at
12 that technical statement, which begins three pages
13 from the back, that technical statement includes a
14 couple of relevant tables, Page 2 of 2 and page --
15 Page 2 of 3 and Page 3 of 3. On Page 2 of 3, there
16 is no reference, is there, to the \$10.9 million
17 credit?

18 A (Labrecque) No.

19 Q So, overall, the forecasted cost is about \$29 million
20 less than originally expected in September?

21 A (Labrecque) The forecasted costs for 2007 are
22 18 million less.

23 A (Puzio) In addition, we had 10.9 million overrecovery
24 from 2006. Together, yes.

[Witness panel: Puzio|Hall|Labrecque]

1 Q Okay. Could you give us a little more detail about
2 the 18 million?

3 A (Labrecque) Yes. The 18 million is detailed on Page
4 2 of 3, the different elements that made up it. The
5 largest chunks are the fact that the net purchase
6 expense declined by 22 million, while net IPP expense
7 increased by nearly 5 million. The reason for the
8 decrease in net purchases is partly related to lower
9 market prices today compared to in September, the
10 draft filing.

11 Q And, is that illustrated on Page 3 of 3 of that
12 technical statement?

13 A (Labrecque) Yes. The drop in prices is provided in
14 Footnote D.

15 Q But I just have I think one last question. What is
16 the percentage of power that you expect to purchase?

17 A (Labrecque) This filing includes somewhere in the
18 range of 30, 30 percent of our energy supply is from
19 market-based purchases. It's not including IPPs.

20 Q Okay.

21 A (Labrecque) Of the 30 percent, 18 percent or
22 60 percent of the 30 has already been procured at
23 fixed known prices, and that's reflected in this
24 filing. The remaining portion, approximately half of

[Witness panel: Puzio|Hall|Labrecque]

1 it relates to this call option, this allowance for a
2 portion of our load that we feel is subject to
3 migration. And, the remainder is related mostly to
4 the annualized derate that we apply to the base load
5 coal plants and that -- and last year we procured the
6 majority of that power in advance, you know, on an
7 annualized basis. This year we're proposing to
8 procure that power in more shorter term procurements
9 as these forced outages occur. That's not to say, in
10 the next few weeks, we may not hedge a portion of
11 that exposure, but we don't plan to hedge all of it.

12 **MS. AMIDON:** Thank you. Mr. Chairman, I
13 have no more questions.

14 **CHAIRMAN GETZ:** Thank you.

15 BY CHAIRMAN GETZ:

16 Q Okay. Mr. Hall, I just have a couple of questions
17 about the gaming issue. As I understand your
18 testimony, you're essentially concluding that it's
19 premature to implement a anti-gaming proposal,
20 because you see no real evidence that gaming, however
21 it's defined, is taking place? Is that a fair
22 reading of part of your testimony?

23 A (Hall) Yes, sir.

24 Q And, I take it you've also reviewed, from your

[Witness panel: Puzio|Hall|Labrecque]

1 comments, you reviewed Mr. Traum's proposal. And, I
2 guess another part of your testimony you admonished
3 us and cautioned us and warned us against adopting a
4 proposal that might provide a barrier to competitive
5 choice. Could you explain, with respect to Mr.
6 Traum's proposed Option Number 1, how that would, in
7 your view, erect a barrier to competitive choice?

8 A (Hall) Sure. First, let me say that the difference
9 of opinion that Mr. Traum and I have is just that,
10 it's a matter of opinion. I respect his point of
11 view and I accept the fact that he and I have an
12 honest difference of opinion as to what "gaming"
13 means. With regard to how his proposal will harm the
14 competitive market, I have to say that his proposal
15 is relatively innocuous in that it doesn't impose any
16 monetary penalty on a customer for jumping back and
17 forth. But the perception that a customer might have
18 that, once they return, that if they leave PSNH to go
19 to a competitive supplier and then return, they're
20 essentially stuck with PSNH for a 12-month period,
21 arguably could cause a customer to think, think hard
22 about their decision, especially if a supplier is
23 offering them an option to take power for like a
24 six-month period. It really would depend on the type

[Witness panel: Puzio|Hall|Labrecque]

1 of options and the terms of service that suppliers
2 might be offering to a customer.

3 Q Well, that gets me back to the definition of
4 "gaming".

5 A (Hall) Uh-huh.

6 Q Which Mr. Traum lays out in his testimony in
7 referring to a Commission order that defined "gaming"
8 as "the strategic migration to and from PSNH's Energy
9 Service so as to take advantage of price fluctuations
10 in a manner that imposes unfair recovery burdens on
11 customers that may be unable to migrate due to such
12 factors as the lack of competitive suppliers." Do
13 you have a -- I'm trying to understand this. You
14 have a dispute with that general definition or is it
15 you have a difference of opinion on what type of
16 strategies individuals might use that might
17 constitute gaming?

18 A (Hall) When you get right down to it, if a customer
19 were jumping back and forth between PSNH and the
20 competitive market in a relatively short-term basis,
21 I can see how one could conclude that was gaming.
22 And, in fact, you know, from one perspective, the
23 customer is gaming, in that they're looking at the
24 lowest cost option from time to time. It's a fine

[Witness panel: Puzio|Hall|Labrecque]

1 line between defining whether a customer exercising
2 an economic choice, moving back and forth between the
3 market, falls into -- falls onto the side of gaming
4 or whether it's simply the way that the competitive
5 market ought to operate, with the fallback position
6 the customer has of Default Energy Service. And,
7 that's really a judgment call that you have to make,
8 and that's why you're sitting in that chair and I'm
9 sitting over here.

10 Q And, I take it from the questions that Mr. Eaton was
11 asking you that you certainly are not proposing that
12 the intent of the customer is any how -- is any way a
13 element of whether there's a violation of gaming?

14 A (Hall) Yes, sir. I hope you don't require us to try
15 to read the customer's mind and figure out what the
16 customer is thinking or their motivation for
17 switching. That I don't think I'd be able to do.

18 **CHAIRMAN GETZ:** Mr. Eaton, any redirect?

19 **WITNESS HALL:** Jerry.

20 **CMSR. BELOW:** Can you hold on one
21 second? Sort of your questions triggered some questions.

22 BY CMSR. BELOW:

23 Q Mr. Hall, of the 135 customers who switched between
24 February and September of this year, how many have

[Witness panel: Puzio|Hall|Labrecque]

1 come back at this point?

2 A (Hall) Let me see if I have that data with me. I'm
3 not sure if I do.

4 (Short pause.)

5 **CONTINUED BY THE WITNESS:**

6 A (Hall) I believe that, through October, other than
7 the four customers that I talked about that had
8 returned and then gone back to the same competitive
9 supplier, I don't believe any other customers, as of
10 the end of October, have returned to PSNH.

11 BY CMSR. BELOW:

12 Q But, for planning for 2007, you've assumed that they
13 would all come back --

14 A (Hall) Yes, sir.

15 Q -- by January 1st?

16 A (Hall) Yes, sir. We're operating under the
17 assumption that these customers entered into
18 relatively short-term arrangements that would expire
19 at the end of 2006. And, in fact, we asked a couple
20 of discovery requests to the two suppliers who were
21 intervening in this proceeding. And, the response
22 that we got from one of them was that the
23 arrangements that that supplier had entered into all
24 terminated by the end of '06.

[Witness panel: Puzio|Hall|Labrecque]

1 Q So, is that the basis of your assumption that there
2 would be 100 percent return by the first of the year?

3 A (Hall) You mean that data response?

4 Q Yes.

5 A (Hall) No, that wasn't the basis. I'll turn to you.

6 A (Labrecque) Yes. The basis for that assumption is
7 that this ramp-up from zero to 135 customers was
8 fairly swift in late February, mid March, April, say.
9 At that time, there had been a dramatic drop in the
10 price of power for, let's just say, April to December
11 of '06. But the price of forward energy for January,
12 February, and March of '07 was still extreme, you
13 know, it still -- it hadn't -- the natural gas
14 collapse was more a short-term phenomenon. So, I
15 don't believe that competitive suppliers were able,
16 in March, April of '06 to offer a price for the first
17 three months of '07 that would have been competitive
18 with what most customers would have foreseen to be
19 potentially PSNH's rate in 2007. So, I don't believe
20 there was a market opportunity there for customers.

21 Q So, we have a situation where between, in the first
22 half of this year, there was something like a
23 \$36 million overrecovery, is that about right?

24 A (Puzio) That's correct.

[Witness panel: Puzio|Hall|Labrecque]

1 Q And, in a sense, about 25, 24, 25 million of that has
2 been returned to customers or is projected to be
3 returned to customers by the end of this calendar
4 year, so that the net overrecovery is only the 10
5 point something, 10.9 million.

6 A (Puzio) Actually, the 36 million is being refunded in
7 the second half of the year. An additional
8 10.9 million has been deferred or overcollected
9 during the July through December period. The
10 36 million relates to the February through June 2006
11 period.

12 Q Right. So, but in netting those out, what would be
13 the net overrecovery for the whole calendar year?

14 A (Puzio) It would have been about \$46 million, \$47
15 million.

16 A (Hall) Absent the change in the rate on July 1st.

17 Q I'm confused.

18 A (Hall) The rate, the energy rate decreased on
19 July 1st --

20 Q Right.

21 A (Hall) -- because a large overrecovery had occurred.
22 Had that rate not changed, that overrecovery would
23 have continued to grow from \$36 million at the end of
24 June to about \$46 million at the end of the year.

[Witness panel: Puzio|Hall|Labrecque]

1 Because the rate was dropped, the 36 million in the
2 first half of the year was refunded in the second
3 half, but we still had that \$10 million overrecovery
4 in the second half of the year, leaving us a balance
5 at the end of the year of about 10 million.

6 Q Right. But couldn't one say that there was, on net,
7 about a 20 -- \$24 million net refunding of
8 overrecovery during the second half of this year? I
9 mean, if you start the period with 36 million
10 overrecovery, and you end the period with about
11 11 million overrecovery, the net difference is about
12 20 -- 25 million?

13 A (Hall) Okay. I'm with you. The overrecovery was
14 reduced by about 25, 26 million in the second half,
15 correct.

16 Q Okay. Now, I guess what I'm trying to think through
17 in the sort of anti-gaming question, going forward in
18 -- after the first of this year, the rate, because of
19 that overrecovery, rates are going to be somewhat
20 lower than they might -- would have been otherwise.
21 If we ended the year with zero overrecovery, rates --
22 that the energy rate would be somewhat higher going
23 forward. To the extent that customers who, during
24 most of this year, were not taking Default Energy

[Witness panel: Puzio|Hall|Labrecque]

1 Service, they didn't actually participate in
2 contributing towards that overrecovery. But, to the
3 extent that they come back, they will participate in
4 essentially the refunding of that overrecovery?

5 A (Hall) True.

6 Q Does that concern you?

7 A (Hall) To a certain extent, yes. But that is, again,
8 that's the nature of ratemaking. Customers are
9 moving all the time. You know, this is an age-old
10 argument, where I remember many years ago we were
11 talking about going from a monthly fuel charge to a
12 quarterly to an annual fuel charge, and the argument
13 there are "well, if you get a seasonal customer that
14 only uses power during the summer, then they are
15 somehow getting the benefit or they're getting
16 unfairly burdened by costs that are being over
17 recovered or under recovered in a different period."
18 It's one of the issues that we have to struggle with.
19 And, that issue is, you know, "is it undue
20 discrimination?"

21 To put it in perspective, a \$10 million
22 underrecovery is a difference of about 0.125 cents in
23 the rate. That's ballpark. A little over a mill per
24 kilowatt-hour, tenth of a cent.

[Witness panel: Puzio|Hall|Labrecque]

1 Q So, your point being, it's a small -- it's small in
2 the bigger scheme of things, so it's not --

3 A (Hall) Yes, sir.

4 Q -- which is a reason why it's not a big concern at
5 this point. It's theoretically possible, if the
6 market changed dramatically, we could end up with a
7 situation where its relative size was much bigger
8 where it might be a greater concern?

9 A (Hall) Yes, sir.

10 **CMSR. BELOW:** Okay. Thank you.

11 **CHAIRMAN GETZ:** Redirect?

12 **MR. EATON:** Just a second.

13 (Atty. Eaton conferring with Witness
14 Hall.)

15 **REDIRECT EXAMINATION**

16 BY MR. EATON:

17 Q Mr. Hall, you have a document in front of you. Could
18 you please describe that.

19 A (Hall) Sure.

20 Q Could you describe that document. I think everyone
21 has it.

22 A (Hall) Sure. This is a bar chart that shows the
23 weighted average cost per megawatt-hour of serving
24 load, residential versus our largest class, Rate LG.

[Witness panel: Puzio|Hall|Labrecque]

1 And, I put this chart together in the context of the
2 discrimination discussion that we had earlier on the
3 record. Ken and I had a similar discussion,
4 Mr. Traum and I had a similar discussion during a
5 technical session. And, one of the questions that
6 OCA had was "well, gee, our smaller customers is
7 effectively subsidizing larger customers through the
8 rates that they pay, either from -- from an energy
9 perspective. And, therefore, when larger customers
10 leave and return, aren't they getting an unfair
11 advantage over smaller customers?" And, I was really
12 intrigued by the discussion, and I didn't know what
13 the answer was.

14 So, what I did is, I looked at the
15 average cost of serving a typical residential load
16 and compared it to the average cost of serving a
17 typical large customer load. And, to calculate the
18 average, and this is from an energy perspective, to
19 calculate the average energy cost, we used the data,
20 hourly data that's underlying our forecast in
21 proposed rate of 8.59 cents per kilowatt-hour. And,
22 we applied that hourly data to a residential load
23 shape and came up with a weighted average cost per
24 megawatt-hour, and we did the same thing to a typical

[Witness panel: Puzio|Hall|Labrecque]

1 large customer load shape. And, what we found is
2 that, in each and every month, the weighted average
3 cost of serving a residential load is slightly higher
4 than the weighted average cost of serving a large
5 customer load from an energy perspective.

6 My conclusion from this is that there is
7 no subsidy by residential customers from an energy
8 perspective of the large customer class. And, in
9 fact, it costs more to serve a residential customer
10 on a weighted average energy cost than it does for a
11 large customer.

12 **MS. HATFIELD:** Mr. Chairman, I'd like to
13 actually object to PSNH introducing a new document at this
14 point that we have not had a chance to review, that we
15 have not had a chance to ask them discovery about. And, I
16 also don't know how this is actually germane to the issue
17 of gaming, which I think that's why the Company is
18 bringing it in. So, I'm not sure, maybe we can take a few
19 minutes to do that now, or -- but I just wanted to get
20 that on the record. Thank you.

21 **CHAIRMAN GETZ:** Mr. Eaton, your
22 response?

23 **MR. EATON:** Well, perhaps Mr. Hall could
24 explain a little more on how this was calculated and why

[Witness panel: Puzio|Hall|Labrecque]

1 the differences show up.

2 BY MR. EATON:

3 Q Could you explain how these figures were calculated,
4 what data did you use?

5 CHAIRMAN GETZ: Well, I guess one of the
6 questions that was in my mind is "how much weight to give
7 this document, without the workpapers behind the
8 conclusions?" And, so, I guess if you could maybe
9 explain, either or both of you, what, you know, responding
10 to Ms. Hatfield's question, for what purpose this document
11 is proposed in aiding our decision in this proceeding?

12 BY THE WITNESS:

13 A (Hall) Well, the reason that I suggested introducing
14 it gets to the discussion that we had earlier on
15 cross-exam with regard to "whether there is
16 discrimination between classes". That's the whole
17 purpose, is to show that the concern that there is
18 somehow discrimination that favors the large customer
19 class, that the data that I have here is attempting
20 to show just the opposite. Or, if not the opposite,
21 that there -- that at least the discrimination
22 doesn't exist.

23 (Chairman and Commissioners conferring.)

24 CHAIRMAN GETZ: Well, Mr. Eaton, I take

[Witness panel: Puzio|Hall|Labrecque]

1 it you'd like to propose this be marked for
2 identification, is that --

3 **MR. EATON:** Yes, but it's -- but it's
4 not crucial. We thought it would be helpful for the
5 Commission, as far as explaining what the status is before
6 -- before migration or gaming take place.

7 **CHAIRMAN GETZ:** Well, let's do it this
8 way then. We'll mark it for identification as "Exhibit
9 Number 3". We will overrule the objection to its entry
10 into the -- as an exhibit. But we'll note for the record
11 that, inasmuch as there are -- no workpapers have been
12 provided backing up the conclusions, that we will give it
13 the weight it is due in such regard.

14 (The document, as described, was
15 herewith marked as **Exhibit 3** for
16 identification.)

17 **CHAIRMAN GETZ:** Is there anything else,
18 Mr. Eaton?

19 **MR. EATON:** No thank you.

20 **CHAIRMAN GETZ:** Anything else for this
21 panel? Mr. Camerino.

22 **MR. CAMERINO:** Mr. Chairman, if I may, I
23 just wanted to follow up very briefly with Mr. Hall on a
24 question from Commissioner Below.

[Witness panel: Puzio|Hall|Labrecque]

1 **CHAIRMAN GETZ:** Please.

2 **CROSS-EXAMINATION (continued)**

3 BY MR. CAMERINO:

4 Q Mr. Hall, prior to this year, can you just explain
5 the method by which overrecoveries or underrecoveries
6 of Energy Service revenues, Transition Service
7 revenues were collected? Did they come through the
8 Energy Service rate or did they go through a
9 different portion of the rate?

10 A (Hall) It was the latter. Overrecoveries and
11 underrecoveries of energy costs, prior to 2006, were
12 added to or subtracted from the balance of
13 nonsecuritized stranded costs. Because there no
14 longer is a balance of nonsecuritized stranded costs,
15 over- and underrecoveries of energy costs now are
16 flowed through the prospective Energy Service charge.

17 Q And, by passing those over-/underrecoveries back
18 through the Stranded Cost Recovery Charge, were they
19 paid by all customers, regardless of whether they
20 were taking energy service, or only by some
21 customers?

22 A (Hall) No. They are only credited to or paid by
23 those customers that take energy service from PSNH.

24 Q And, maybe you didn't understand my question. When

[Witness panel: Puzio|Hall|Labrecque]

1 the over-/underrecoveries were passed through the
2 SCRC, the Stranded Cost Recovery Charge, --

3 A (Hall) I'm sorry.

4 Q -- which groups of customers paid or received the
5 benefits of those amounts, when it went through the
6 SCRC?

7 A (Hall) When over- or underrecoveries were credited to
8 or added to the balance of Part 3 stranded costs, all
9 Delivery Service customers either got the benefit of
10 the overrecovery or paid for an underrecovery of
11 energy costs.

12 **MR. CAMERINO:** Okay. Thank you.

13 **CHAIRMAN GETZ:** Anything else for the
14 panel?

15 **MS. HATFIELD:** No.

16 **CMSR. BELOW:** Well, I have a question to
17 understand this a little bit more.

18 BY CMSR. BELOW:

19 Q You say you've applied hourly data. Now, in your
20 Page 3 of 3 of the technical statement at the end of
21 Exhibit 2, you have for some power purchases
22 differential in rates based on time of purchase, for
23 the Footnote E. And, I -- looks like there's some
24 also relative to D, with regard to the purchases from

[Witness panel: Puzio|Hall|Labrecque]

1 IPPs. But, to the extent that roughly 70 percent of
2 your generation is self supply, was there any attempt
3 to do hourly differentiation in the cost of energy
4 for that purpose or what components were put into
5 developing the weighted average?

6 A (Hall) This is exclusively a marginal cost analysis.
7 It doesn't include the embedded cost of generation.
8 It is -- It's a calculation of the cost of serving or
9 -- an additional kilowatt of load in each hour or the
10 savings that results from not having to serve a
11 decremental kilowatt in each hour.

12 Q So, what is being weighted? What -- Is the margin
13 presumed to be the market, market price from ISO-New
14 England? Is that assumed at the day ahead pricing or
15 the --

16 A (Labrecque) I can answer that, Steve. For the energy
17 simulation that forms the basis of the energy piece
18 of this filing, we take the forward market prices,
19 you know, quoted as of a certain day. And, if you
20 look at Footnote D, that middle block there, the
21 11/17 filing, those are the monthly averages for
22 those time periods. But we then break out this
23 monthly data into hourly data. So, we actually
24 transform the forward monthly markets into 8,760

[Witness panel: Puzio|Hall|Labrecque]

1 hours of hourly prices, marginal prices, to use in
2 the energy simulation for, say, the IPP at market
3 valuation and any supplemental purchases that we
4 haven't procured at fixed prices. So, we use those
5 hourly prices to weight the representative load
6 profiles of the two classes on that sheet.

7 Q So, in essence, it really reflects the marginal
8 incremental cost, not the average cost to serve these
9 customers, because the average cost would include the
10 70 percent of self supplies that has minimal time
11 differentiations, unless you try to start including
12 opportunity cost results to the market?

13 A (Hall) From an average -- By "average" what I mean
14 is, it is a marginal cost in each hour, as described
15 by Mr. Labrecque, we added all those marginal costs
16 up hour by hour, and then divided by the
17 kilowatt-hours in the month to come up with an
18 average kilowatt-hour price per month or a
19 megawatt-hour price per month, cost per month.

20 Q Thank you. I had another question on Footnote D.
21 For the IPP purchases, you're showing a capacity cost
22 at the Transition Capacity Charge. And, I'm just
23 curious in understanding, are those costs you
24 actually expected to incur, to be paid to those

[Witness panel: Puzio|Hall|Labrecque]

1 producers, above and beyond what the sort of rate
2 order requirements are? Is the assumption that they
3 own the capacity and are entitled to those payments
4 or --

5 A (Hall) It's the value of that capacity price at
6 market.

7 Q Okay. So, you're -- this is the calculation, you're
8 not actually paying them capacity charges, you're
9 just paying them what's due under the rate orders?

10 A (Hall) Correct.

11 Q But you're trying to impute the market price to
12 deduct out the over market costs?

13 A (Hall) Yes, sir.

14 Q Okay. I understand.

15 A (Hall) The reason that we need to do that is because
16 we've got to split the way we recover the costs.

17 **CMSR. BELOW:** Right. I understand.

18 Okay. Thank you.

19 **CHAIRMAN GETZ:** Mr. Eaton?

20 **MR. EATON:** Nothing further.

21 **CHAIRMAN GETZ:** Okay. Then, the
22 witnesses are excused. Thank you. Ms. Hatfield.

23 **MS. HATFIELD:** Yes, the OCA would like
24 to call Ken Traum.

[Witness: Traum]

1 (Whereupon **Kenneth E. Traum** was duly
2 sworn and cautioned by the Court
3 Reporter.)

4 **KENNETH E. TRAUM, SWORN**

5 **DIRECT EXAMINATION**

6 BY MS. HATFIELD:

7 Q Good morning. Would you please state your name for
8 the record.

9 A Kenneth E. Traum.

10 Q And, by whom are you employed?

11 A I'm at the Office of Consumer Advocate.

12 Q And, what is your position with the OCA and what are
13 your duties?

14 A I'm the Assistant Consumer Advocate for the office.
15 And, my duties are far-ranging, in that I basically
16 get involved in all aspects of all types of dockets,
17 and advise the Consumer Advocate and work with the
18 Advisory Board of the office, and, as need be,
19 testify at the Legislature.

20 Q And, have you -- excuse me. Have you testified
21 before this Commission previously?

22 A Certainly more times than Mr. Puzio.

23 Q And, did you prepare testimony for this proceeding
24 today, which was filed on November 7th, 2006?

[Witness: Traum]

1 A Yes, I did.

2 Q Do you have that testimony in front of you then?

3 A Yes, I do.

4 Q And, do you have any corrections or adjustments that
5 you need to make to that testimony?

6 A No.

7 Q Is it true and accurate to the best of your knowledge
8 and belief?

9 A Yes, it is.

10 Q And, do you adopt it today as your sworn testimony?

11 A Yes, I do.

12 **MS. HATFIELD:** I would like to request
13 that Mr. Traum's testimony and exhibits be marked for
14 identification purposes I believe as "Exhibit 4".

15 **CHAIRMAN GETZ:** So marked.

16 (The document, as described, was
17 herewith marked as **Exhibit 4** for
18 identification.)

19 BY MS. HATFIELD:

20 Q Mr. Traum, would you please briefly summarize the
21 overall purpose of your testimony in this proceeding.

22 A Certainly. My testimony only relates to the gaming
23 issue that we've already heard a lot of discussion
24 about. And, I'm looking at it from the perspective

[Witness: Traum]

1 of how to protect small customers from cost shifting.
2 And, this issue arose when the OCA raised it at last
3 summer's Energy Service rate hearing. And, you, the
4 Commissioners, responded by ordering PSNH to include
5 an anti-gaming proposal in the instant docket. And,
6 as has been referred to, in your order doing that,
7 you had defined "gaming" or you stated "We are
8 concerned about the potential for what some
9 characterize as "gaming", that is the strategic
10 migration to and from PSNH's energy service so as to
11 take advantage of price fluctuations in a manner that
12 imposes unfair recovery burdens on customers that may
13 be unable to migrate due to such factors as the lack
14 of competitive suppliers serving their market
15 segment. We note that other jurisdictions have
16 addressed this issue in similar circumstances." And,
17 I just wanted to stress where you noted that "other
18 jurisdictions have addressed this issue in similar
19 circumstances." We're not looking for you to invent
20 the wheel here. The wheel has been invented, has
21 been around for years, and not just in other
22 jurisdictions, but here in New Hampshire, too,
23 whether it's with the natural gas utilities or Unitil
24 and National Grid, with, in effect, the way their

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[Witness: Traum]

1 "anti-gaming rules", as I'll call them, have evolved.

2 PSNH did, in compliance with your order,

3 recommend an anti-gaming proposal, if you felt one

4 was necessary. But they certainly didn't support it.

5 And, from our viewpoint, we don't think it is strong

6 enough. And, we think it is a proper time for the

7 Commission to act proactively to establish

8 anti-gaming rules. And, one has to look no farther

9 than the data response that has already been

10 addressed in this proceeding, where PSNH has

11 recognized that they consider the potential for

12 migration to be significant in 2007, especially after

13 the volatile winter months of January and February.

14 And, our concern about migration is

15 that, at times of a favorable market pricing compared

16 to PSNH's average rate for Energy Service, a customer

17 can legitimately and economically will go to a lower

18 cost. And, I've used the hypothetical that, if

19 PSNH's average rate for the year is 9 cents, and in

20 certain months their costs, because of market prices,

21 say, in January and February, are 12 cents, a

22 customer can be on in January and February, they will

23 pay 9 cents a kilowatt-hour. However, if PSNH's is

24 incurring the cost of 12 cents, what happens to that

[Witness: Traum]

1 3 cent shortfall? Under the average pricing
2 mechanism, that 3 cent shortfall is picked up in
3 average cost months, in months where the average
4 market price is lower than the 9 cents.

5 If, instead that customer has left to a
6 competitive supply in those lower cost months, what
7 happens to that 3 cents? It's shifted to everybody
8 who stays. The residential or small customers are
9 stuck paying for it, because they don't have the
10 opportunity, they don't have the competitive supplier
11 opportunity to move.

12 And, I had referred in my testimony to
13 some options that we, the OCA, thought might be ways
14 to deal with its anti-gaming concern. Our preferred
15 option is that we'll allow customers the opportunity
16 to choose, at any point in time they can choose. If
17 they choose, and then, at some point, they decide
18 they want to return to Public Service's energy
19 supply, they can, but, at that point, they have to
20 stay on for at least 12 months. And, that's the way
21 we feel that we can address the anti-gaming concern.
22 And, we feel that that option is similar to the
23 structure now in place for KeySpan's customers in New
24 Hampshire and for Northern's customers in New

[Witness: Traum]

1 Hampshire, and it is consistent with Connecticut
2 Light & Power's restrictions in Connecticut.

3 A second option that was not the
4 preferred option, but is certainly a very legitimate
5 option, is to bill customers who have competitive
6 supply options or large customers a monthly rate
7 based on PSNH's costs for the month. And, that would
8 be -- in New Hampshire that would be similar to large
9 customers of National Grid and in Unitil will see a
10 monthly rate. And, it's our understanding that that
11 is something similar to what WMECO's customers would
12 see. But, as I stated, our preference is, if you go
13 out and come back, you have to stay on for 12 months.

14 And, I believe that completes my short
15 summary.

16 **MS. HATFIELD:** Thank you. No further
17 questions.

18 **CHAIRMAN GETZ:** Well, actually, could we
19 -- I'll jump in.

20 BY CHAIRMAN GETZ:

21 Q Can you go right now to addressing Mr. Hall's concern
22 with respect to Option 1, whether you believe there's
23 any anti-competitive barrier that would be erected by
24 adopting your proposal?

[Witness: Traum]

1 A Yes. I'm coming from a different viewpoint. I'm
2 trying to protect the small customers from cost
3 shifting. And, that's what our recommendation is
4 based upon. Having said that, yes, you can certainly
5 hypothesize that a customer would much prefer no
6 rules on when they can jump back and forth to
7 competitive sources and take the lowest price. And,
8 if they are prohibited in any 12-month period,
9 because they have already jumped back and forth, to
10 continue doing that, that that may preclude some, but
11 -- it may preclude those customers from entering the
12 competitive market, but it's protecting all of the
13 other customers. And, we're -- I think, as Mr. Hall
14 had said, we're looking at it from different
15 perspectives. And, just like when we look at the
16 reason the Legislature went to restructuring, was it
17 to develop a competitive market and was that the end
18 of the story or was it to bring lower rates to all
19 customers? I would say that the premiere concern was
20 to bring lower rates and bills to all customers.

21 **CHAIRMAN GETZ:** Thank you. Mr.
22 Camerino, start with you.

23 **MR. CAMERINO:** Thank you, Mr. Chairman.

24 **CROSS-EXAMINATION**

[Witness: Traum]

1 BY MR. CAMERINO:

2 Q Mr. Traum, let me start with just some general
3 questions about the comparisons you made. Is it fair
4 to say that the competitive electric market in the
5 other New England states that have restructured their
6 electric industries is considerably more vibrant than
7 the market in New Hampshire at this point, and
8 particularly with regard to PSNH's territory?

9 A What we -- I don't know how vibrant that market
10 necessarily is in Connecticut. It's my understanding
11 that, certainly, in the New Hampshire service
12 territories of Grid and Unitil, the competitive
13 market for the large customers is relatively vibrant,
14 and there is monthly pricing there.

15 Q Well, that's a fair exception. Would you then tell
16 me whether, in your view, the market design is
17 different in the Unitil and Grid territories than it
18 is in PSNH, with regard to generation and related
19 issues?

20 A Well, absolutely, it is. And, the problem is, I'm
21 not sure if I should say the "problem", but
22 difference is that PSNH owns generation, and the
23 other two utilities don't.

24 Q And, is it fair to say that that difference creates

[Witness: Traum]

1 some significant differences in terms of the activity
2 in the competitive marketplace?

3 A There are -- I think it would be fair to say that,
4 where PSNH's generation, I believe by legislation, is
5 to provide benefits to all customers, that creates an
6 issue that must be dealt with that's not there for
7 the other utilities in New Hampshire.

8 Q And, am I correct, or at least to your knowledge, am
9 I correct that the restructuring statute doesn't
10 actually define "gaming"?

11 A As far as I know, that's correct.

12 Q And, is it also fair to say that the restructuring
13 statute has many competing principles, some might
14 even say "contradicting principles", that the
15 Commission is required to find a way to balance?

16 A The Commission is, I believe by law, required to
17 interpret the legislation as it understands it.

18 Q Are you familiar with the portion of the statute, and
19 I'm referring to 374-F, Section 3, V, which I think
20 was discussed previously, and subparagraph (c) of
21 that describes "Default Service". And, in there, one
22 of the attributes of one of the principles that the
23 Commission is supposed to implement is "discouraging
24 the long-term use of Default Service"?

[Witness: Traum]

1 A Yes. In fact, I quoted it on Page 6 of my testimony.

2 Q So, one of the goals the Legislature had was not to
3 have people stay on Default Service, but rather be
4 out in the competitive market, and I stress in my
5 question, that's one of the principles?

6 A Yes. What I'd have to say is that, once the
7 competitive market has developed, and, for the small
8 customers, there is no sign that that market has
9 developed yet. I believe the restructuring statute
10 also talks about that "restructuring should be
11 implemented in a manner that benefits all consumers
12 equitably and does not benefit one customer class to
13 the detriment of another." To the extent that one
14 customer class can take advantage of competitive
15 options and the other can't, I don't think that it's
16 proper to allow the one class to cost shift.

17 Q But it's fair to say that a consideration that the
18 Commission must weigh is not creating rules that
19 would cause people to stay on Default Service?

20 A The Commission has to weigh that, correct, as well as
21 the risk of restructuring in such a way that one
22 customer class can shift costs to another.

23 Q Do you have any information that would indicate that
24 at this point gaming, either the way you've described

[Witness: Traum]

1 it or the way Mr. Hall has described it, is actually
2 occurring?

3 A I have no understanding that, to this point in time,
4 that anything has occurred. But, even the Commission
5 notes when it, in effect, defined "gaming", that
6 other jurisdictions have addressed this issue in
7 similar circumstances. And, I believe it's been
8 addressed, whether you want to look at KeySpan in New
9 Hampshire, Northern Utilities in New Hampshire,
10 Unitil in New Hampshire, Grid in New Hampshire, CL&P
11 in Connecticut, I think UI in Connecticut has a
12 similar thing as CL&P, or the way Massachusetts --
13 WMECO has addressed it.

14 Q Well, I'm not familiar with all of the examples you
15 cited. I'm familiar with some of them. But, in
16 those cases, how many of those do the utilities own
17 their own generation or supply assets, as opposed to
18 procuring them in the marketplace?

19 A And, I suppose I can say that KeySpan and Northern
20 Utilities own their own supplemental facilities,
21 which are included in their determination of the cost
22 of gas. So, to a small extent, there is. But I will
23 grant you that the PSNH situation is significantly
24 different because of their ownership of generation.

[Witness: Traum]

1 And, we have to recognize that when we set up rules.

2 Q Okay. And, the supplemental supply facilities you
3 referred to, those are a very small portion of the
4 total supply portfolio?

5 A That's correct.

6 Q Let me give you an example of a situation that might
7 occur and ask you how that would play out with your
8 proposal. Suppose a customer went into the
9 marketplace and signed a six-month contract with a
10 supplier. And, at the end of that contract, so I'm
11 referring to a mere expiration of the contract in
12 accordance with its terms, the customer either could
13 not find a competitive supplier that met its needs or
14 simply decided that it wasn't satisfied with its
15 experience in the marketplace, and that might be for
16 price reasons, it might be for other reasons. At
17 that point, that customer would be able to come back
18 to PSNH under your proposal, correct?

19 A Yes. And, just so I understand the start of the
20 hypothetical, this customer chose a six-month
21 contract by a competitive supplier, after the
22 Commission, let's say, adopted the OCA's recommended
23 anti-gaming rules?

24 Q Correct.

[Witness: Traum]

1 A Okay. Thank you. Yes.

2 Q So, my description there is correct. The next thing
3 that would happen is they could come back to PSNH for
4 energy supply?

5 A Correct.

6 Q But, even though that customer's contract had merely
7 expired in accordance with its terms, it then could
8 not, it would be prohibited from going back to the
9 competitive supply market, regardless of what
10 happened to prices, PSNH's price or market prices in
11 that next year? They would have given up that right?

12 A That's correct. And, the rationale is that the
13 reason -- we assume that the reason that that
14 customer went to a competitive supply for the
15 six-month period is because they got a better price
16 than PSNH's average rate during that six-month
17 period. Remember, when you set an average rate for a
18 year, there are months where it costs PSNH more and
19 months where it costs PSNH less to provide that
20 service. We'd have to assume that, during the six
21 months this customer went to a competitive supply, it
22 was because the market price was below PSNH's price.
23 So, what they're doing is they're avoiding making
24 PSNH and other customers whole for the higher cost

[Witness: Traum]

1 months when they were receiving PSNH's Energy
2 Service.

3 Q Well, your answer there though assumes that the
4 relationship of prices that you just postulated
5 exists. That the relationship could, in fact, be
6 different, correct? They could be reversed. We
7 don't know exactly what the circumstances are or what
8 the customer was thinking when it made the change?

9 A If the customer voluntarily chooses a competitive
10 supplier who's offering a rate higher than Public
11 Service, I would be shocked.

12 Q No, but they might be anticipating what the rate is
13 going to be, am I correct? They may not know what
14 the rate is going to be when they make the choice?

15 A They won't know what PSNH's rate is going to be?

16 Q That's correct. Because they're projecting forward
17 for the future period, and there may be either a
18 planned adjustment, for example, they may make a
19 choice in October or November into the next year, or
20 there may be an unplanned adjustment, because PSNH
21 submits a quarterly update.

22 A What they would know is that come sometime in
23 December, I assume, the Commission will be setting an
24 Energy Service rate for PSNH that is, in theory, for

[Witness: Traum]

1 12 months. And, then, in September or October, PSNH
2 will be making a filing that will be giving them an
3 estimate of what the rate will be for the following
4 12 months. So, they would have that kind of
5 information on hand.

6 Q I want to ask you a few questions about your
7 testimony. If you'll look at, I'm just going to give
8 you a reference point, if you look at Page 4, you ask
9 yourself a question: "What's the basis for your
10 opinion?" And, you say that you "presume that
11 electric customers with competitive supply options
12 will act in a rational fashion and take advantage of
13 an opportunity to reduce costs once such an
14 opportunity is spotted." Would you agree that the
15 suppliers who serve the New Hampshire market are
16 quite sophisticated and knowledgeable about PSNH's
17 Energy Service rates?

18 A I would certainly assume such.

19 Q And, do you believe that they're actively marketing
20 customers and potential customers now?

21 A As far as I know, they are for large customers.

22 Q Okay. And, again, wouldn't you think that those
23 suppliers would be providing information to the
24 customers, in terms of opportunities to switch back

[Witness: Traum]

1 and forth?

2 A Exactly, as Mr. Hall had referred to, we don't know
3 what the specific information is or arrangements or
4 contracts are that competitive suppliers have with
5 their clients or prospective clients.

6 Q But, to date, you haven't seen any indication that
7 this switching back and forth has occurred?

8 A Well, I think we've heard that there were over 130 or
9 so large customers that had switched during 2006, and
10 PSNH is planning as though they're all back on as of
11 the first of the year.

12 Q Well, we haven't seen that occur yet, have we?

13 A No, we have not seen it occur yet. I'm just saying
14 what PSNH is planning for.

15 Q So, what you're concerned about isn't switching back
16 and forth, it's simply migration as a general matter?

17 A What I'm concerned about is cost shifting to small
18 customers.

19 Q That comes from migration to the competitive market
20 or back from the competitive market?

21 A Correct.

22 Q Do you think that when the Legislature restructured
23 the electric industry, it was doing so in the hope
24 and expectation that customers actually would move to

[Witness: Traum]

1 the competitive market? Was that part of the thought
2 process, to your knowledge?

3 A Oh, I was certainly involved more deeply than I
4 wanted in that whole process. And, yes, the
5 expectation and the hope was that, within a short
6 period of time, there would have been competitive
7 markets developed for all customer classes, and all
8 customers would be able to take advantage of such and
9 see reduced bills. Unfortunately, that has not come
10 to pass for the vast majority of customers.

11 Q My last question on your testimony itself is at the
12 bottom of Page 4 you give an example with some actual
13 numbers. That's just a hypothetical, right?

14 A That's correct.

15 Q And, you're not aware of any example where that type
16 of thing has occurred, whatever the numbers?

17 A That's correct. What I -- I can certainly, when I
18 look at PSNH's Exhibit 2, where they -- they actually
19 estimate what the monthly costs that PSNH will incur
20 to provide energy service. And, those rates, on an
21 average basis per month, vary by up to I believe
22 about a cent and a half a kilowatt-hour. And, then,
23 if I look at what their IPP market value table for
24 what the cost shifts are there on a monthly basis, or

[Witness: Traum]

1 I guess that would be for the marginal cost, they
2 vary by up to two and a half cents a kilowatt-hour.
3 So, whereas my number is a hypothetical, I probably
4 could have used their numbers as an example.

5 Q Right. What I meant is, not the dollar figures, but
6 you haven't seen any customers who have performed the
7 kind of behavior that you're postulating here, that's
8 really what I'm asking?

9 A I am not aware of an individual customer I could
10 point to that do that. But I would just refer to
11 what PSNH has said about they have seen 135 or
12 whatever customers migrating, and they're
13 anticipating them all coming back for January 1, and
14 January and February are the highest cost months.

15 Q Just want to go through a couple of possible other
16 resolutions of the problem that you assert, and I
17 think to some extent you've actually touched on these
18 in your testimony. Is it fair to say that one way
19 you could solve the problem that the Consumer
20 Advocate is concerned about is by having monthly
21 pricing, so that, when customers came or left, they
22 would be paying the true cost to serve in that month,
23 as opposed to an average annual price?

24 A Yes. And, that was what I had referred to in my

[Witness: Traum]

1 testimony as a "second option". That customers, with
2 competitive supply options, could be billed a monthly
3 rate, based on PSNH's estimated costs for the month.

4 Q And, if that could be done, that's a resolution that
5 would be acceptable to the Consumer Advocate?

6 A That's correct.

7 Q And, another possible solution would be breaking down
8 the Energy Service rate by class, so that each class
9 of customers had the actual cost to serve them
10 allocated to them?

11 A And, I believe that would have been something similar
12 to the third option I listed in my testimony. But I
13 recognize that there would be a lot more work, let's
14 say, to be done before we could do a split of PSNH's
15 generation among the different classes.

16 Q Would you agree that those two solutions are ones
17 that would be consistent with other regulatory
18 principles and would not do any harm to the
19 competitive market?

20 A I'd say that, if I felt differently, I probably
21 wouldn't have put them here as options.

22 Q And, the problem with having the Commission adopt
23 those options today, instead of yours, is it's --
24 those are more implicated, and it would take some

[Witness: Traum]

1 time to really develop those more thoroughly?

2 A Option 3, yes. Option 2, no, I don't think so. I
3 think that, with Option 2, they have the monthly
4 numbers today incorporated in RAB-2, Pages 1 and 2,
5 of the updated Exhibit 2.

6 Q Are you suggesting there that that actually could be
7 adopted based on the numbers that are in this filing,
8 is that what you're saying?

9 A Yes, I am.

10 Q But you're aware that, and see if we can anticipate
11 the next round of questioning here, that PSNH feels
12 that there are underlying issues with those numbers,
13 that you can't simply implement those numbers as
14 filed?

15 A I certainly heard the issues about, you know, how do
16 you recognize outages, planned or unplanned? Did you
17 just account for the costs in that specific month or
18 how do you do that? And, I appreciate those concerns
19 that PSNH has raised. And, that's why Option 2 was
20 not our -- that was part of the reason Option 2 was
21 not the OCA's recommended option. But it is a
22 potential resolution.

23 **MR. CAMERINO:** Okay. Thank you. That
24 completes my examination.

[Witness: Traum]

1 **CHAIRMAN GETZ:** Ms. Amidon.

2 **MS. AMIDON:** Thank you. Good morning.

3 **THE WITNESS:** Good morning.

4 BY MS. AMIDON:

5 Q Taking into consideration Mr. Hall's testimony and
6 your testimony, Mr. Hall focusses on actions of a
7 supplier, while you focus on actions of a customer.
8 Considering that we have no evidence that gaming has
9 occurred or the cost shifting that you referred to,
10 how exactly would your proposal help the Commission
11 know which approach is the better of the two or how
12 would you provide the Commission with guidance to
13 choose either approach?

14 A So, I'm -- I guess, so I'm clear on your question,
15 when you say "either approach", do you mean my
16 recommended option, as opposed to my option --

17 Q I'm sorry to interrupt. No, Mr. Hall focusses on
18 what he perceives to be the issue, which is gaming by
19 suppliers, and he cites that, out of 135 cases where
20 customers left to a competitive supply, only four
21 have gone back to take a competitive energy supply.
22 So, he's looking at the supplier using PSNH as a
23 hedge for high market costs. You're looking at the
24 customer. And, given the testimony that there's been

[Witness: Traum]

1 no evidence of any gaming or cost shifting, how can
2 you provide any assistance to the Commission to
3 determine which approach is appropriate?

4 A I think there is evidence of cost shifting in 2006.
5 There was 135 customers that shifted. They shifted
6 because the market prices were below PSNH's price.
7 And, they weren't paying -- they were paying rates
8 below PSNH's average costs. In those months, when
9 they had taken power from something other than PSNH,
10 they were paying that -- they were not paying the
11 rate that was picking up the shortfall for the higher
12 cost months that PSNH provided them with power.

13 **MS. AMIDON:** I'm going to defer to Mr.
14 Mullen at this point.

15 **MR. MULLEN:** Good morning.

16 **THE WITNESS:** Good morning, Steve -- Mr.
17 Mullen.

18 BY MR. MULLEN:

19 Q I think the main point of the question was Mr. Hall
20 is focussing on actions of the supplier, and you're
21 focussing on actions of the customers. Taking those
22 two testimonies into account, how would the
23 Commission know which approach, meaning focussing on
24 the customer or focussing on the supplier, would be

[Witness: Traum]

1 the right one -- is the right way to go? And, I
2 understand your discussion about cost shifting. But,
3 in terms of gaming, you say there's evidence of cost
4 shifting, but we don't really have evidence of
5 "gaming", *per se*?

6 A We don't know why those 135 customers went to a
7 competitive supplier, other than I would certainly
8 venture to assume that it was because they could get
9 a better price than they would with PSNH.

10 Q Okay. So, that just leads me back to considering the
11 two testimonies that have a bit of a different focus,
12 one on the supplier and one on the customer. How
13 does the Commission know, without seeing any evidence
14 of gaming or how gaming, you know, has occurred,
15 whether it should focus on actions of the supplier or
16 actions of the customer?

17 A And, when you say "actions of the customer", do you
18 mean the customer, the small customer or the choosing
19 customer?

20 Q I mean the choosing customer.

21 A What the OCA is asking the Commission to do is to be
22 proactive. That, as PSNH has indicated in the data
23 response I have attached to my testimony, they
24 consider the potential for migration to be

[Witness: Traum]

1 significant in 2007, especially after the volatile
2 winter months of January and February are completed.
3 January and February are the most expensive months.
4 If the customer chooses the end of February or March,
5 they will have taken advantage of average pricing,
6 which is below PSNH's cost to serve. Somebody has to
7 pick that differential up. And, that is what I'm
8 concerned about.

9 Q I understand, and that gets to your whole cost
10 shifting. I'm looking more -- I understand there's a
11 little bit of a fine line here between cost shifting
12 and gaming. And, where this was about an anti-gaming
13 proposal, I was just trying to discern whether it is
14 -- whether you had any way of advising the Commission
15 as to whether it should focus on actions of the
16 supplier compared to actions of the customer, in
17 terms of gaming? I'm understanding your cost
18 shifting argument.

19 A I'm not sure if I'm understanding a distinction of --
20 if the Commission simply were to adopt the OCA's
21 proposal, I think it covers both sides of it.

22 **MR. MULLEN:** Okay. We'll move on.

23 BY MS. AMIDON:

24 Q Yes. I still -- I think we still have questions

[Witness: Traum]

1 about whether this cost shifting you talk about,
2 leaving that aside, whether there's any so-called
3 "gaming" going on in the market. There hasn't been
4 any evidence of it. And, what we are in a quandary
5 is how you would provide any help to the Commission
6 to say "we should look at the supplier action" or "we
7 should look at the customer action" in avoiding
8 prospective anti-gaming. Now, are you participating
9 in docket number DE 06-061, which is the
10 investigation into new federal energy standards under
11 the Energy Policy Act of 2005?

12 A The Office of Consumer Advocate is participating and
13 has put in some limited comments, yes.

14 Q And, do you know that one of the pieces that the
15 Commission has under consideration right now is Smart
16 Metering, which would include different types of
17 billing methods that -- or, consideration of adopting
18 a standard which would include different kinds of
19 billing methods, which could avoid the cost shifting
20 that you're referring to?

21 A And, certainly, as far as I'm aware of, there is no
22 time frame for when anything has to be done.

23 Q Well, there is actually, under the statute, the
24 Commission has to make a determination about whether

[Witness: Traum]

1 to adopt the standard by August of this year.

2 A The standard?

3 Q A standard, regarding -- has to make a determination
4 about whether to adopt a standard regarding the
5 so-called "Smart Metering" standard in the Energy
6 Policy Act of 2005 by August, I believe it's
7 August 5th of this coming year.

8 A And, the Commission, I believe, can decide that they
9 don't have to do anything.

10 Q The Commission can decide that it can't do anything.
11 But, based on the testimony that you provided today,
12 don't you think the Commission might consider whether
13 there is a way to look at that docket also to address
14 this issue?

15 A Absolutely. But, I think --

16 Q Okay.

17 A -- I think that, at this point, if I may finish
18 please, at this point in time, I think we're facing
19 an issue that's much more immediate.

20 Q Okay. Regarding monthly pricing, is this something
21 that you would propose for all customers of PSNH?

22 A No, just the customer classes that have the
23 competitive options.

24 **MS. AMIDON:** Okay. Thank you.

[Witness: Traum]

1 **THE WITNESS:** You're welcome.

2 **CHAIRMAN GETZ:** Mr. Eaton.

3 BY MR. EATON:

4 Q Can I ask how monthly pricing would work? Would the
5 customers be all charged an average rate, but, if
6 they left, you would go back and rebill those
7 customers who left and charge them a monthly rate for
8 the month they were on?

9 A I believe that's the approach that WMECO has in
10 Massachusetts. That's not what the OCA is
11 recommending. Because I think that going back and
12 recalculating could be viewed by some as an exit fee,
13 and I don't think that would be consistent with New
14 Hampshire legislation. So, we would -- under Option
15 2, it would simply be a different rate would be
16 billed each month for the classes that face -- that
17 have competitive alternatives.

18 Q And, there would be months when PSNH's rates were
19 higher than the market rate?

20 A That's certainly a possibility.

21 Q And, customers, who had the option, would move off
22 during those months and come back when PSNH's monthly
23 rate was less than the market rate?

24 A That would be correct. The assumption is is that

[Witness: Traum]

1 PSNH calculates its monthly rate to cover all of the
2 costs it incurred in that month, so there would be no
3 potential for shifting costs to other customers.

4 Q Well, would we -- but, for the customers who have an
5 option, would we ever recover our cost of scheduled
6 maintenance? If we do it in the shoulder months,
7 when costs are low, and I can show you some data in
8 the filing, but wouldn't we always see those
9 customers leave when PSNH is doing scheduled
10 maintenance and its overall costs are high, but the
11 marginal energy costs of the market is below that?

12 A Okay. I completely agree with you, and as I already
13 stated, that Option 2 is not the OCA's recommended
14 option, precisely because of that type of a reason.

15 Q Others may have asked this as well, but when does
16 migration turn into gaming?

17 A I don't know if there is a specific definition, and I
18 don't know if it matters as long as there's cost
19 shifting.

20 MR. EATON: Thank you. That's all the
21 questions I have.

22 CMSR. BELOW: Yes. Thank you, Mr.
23 Chairman.

24 BY CMSR. BELOW:

[Witness: Traum]

1 Q Mr. Traum, in your description of possible options,
2 Page 7 of Exhibit 4, in the description of the second
3 option, for monthly rates, are you assuming that, in
4 conjunction, that there would be a monthly true-up or
5 perhaps a lagging true-up of over- or underrecovery
6 or not?

7 A No, that it would just go into the same pool as all
8 other costs and revenues.

9 Q So, you're suggesting the second option could occur
10 if there was this monthly price based on estimated
11 monthly costs throughout the year, and there could be
12 either a periodic true-up, monthly or annually or
13 whatever?

14 A It would go -- The revenues and the related costs
15 would go into the same pool with that of all other
16 customers taking Energy Service. And, any
17 over-/undercollection would then be spread among all
18 customers. I think it would be too complicated to
19 start tracking monthly over-/undercollections for
20 just this particular set of customers. In terms of
21 the -- as I just stated with Mr. Eaton, that the
22 concern that the OCA has about this option is the
23 outages and how that's taken into account, what that
24 does to the monthly costs.

[Witness: Traum]

1 Q Is it conceivable that you could take the -- well,
2 let me back up. The concern about scheduled outages,
3 is that sort of a fixed cost, in effect, what we
4 might think of as a rate base cost for the owned
5 assets are continued to be recovered or allocated to
6 the monthly billing, even when there's a scheduled
7 outage, and there's an additional cost from energy
8 purchases to make up for that lost energy?

9 A Well, yes, and the question is, you know, should
10 those costs be recovered in that month or just in the
11 months when the unit is on line.

12 Q So, another alternative for the monthly rate could be
13 that you would allocate all costs for the owned
14 generation based on when it was scheduled to produce,
15 so when there is a scheduled outage, you are only
16 buying the -- the only energy cost would be the
17 marginal cost or incremental cost of getting it from
18 the market, which would result from purchasing energy
19 on the market?

20 A I believe I agree with what you just said.

21 **CMSR. BELOW:** Okay. Sorry. That's
22 close enough. Good. Thanks.

23 BY CHAIRMAN GETZ:

24 Q Mr. Traum, I wanted to follow up. In your last

[Witness: Traum]

1 exchange with Mr. Eaton, I think you stated that
2 there's -- well, it's really irrelevant in trying to
3 draw a distinction between what's legitimate
4 migration and what would be illegitimate gaming.
5 And, which I think also goes to the issue of
6 something brought up by Mr. Hall, that you're not
7 concerned so much with intent of or of someone taking
8 advantage of a situation, but it's more an issue of
9 "is there a structural flaw that can be exploited in
10 a way that would impose costs on the larger group of
11 customers?" And, is it fair to say that you're
12 looking at the current situation and saying that
13 you're proposing your Option 1 is a way of guarding
14 against future exploitation of a structural flaw or
15 you're trying to correct a structural flaw? Is that
16 a fair way to characterize your position?

17 A I think that's a very fair way to characterize it.

18 Q And, then, if we don't do it now, then there's some
19 likelihood, in the upcoming months, as what you see
20 as this flaw can be exploited to the disadvantage of
21 the greater number of customers?

22 A That's correct. And, I referred to PSNH's testimony
23 on this, the greater likelihood of migration in 2007
24 after the first couple of months. And, you know,

[Witness: Traum]

1 when we say "flaw" or taking advantage of the system,
2 I wouldn't fault any large customer today from
3 following the rules to their own economic benefit.

4 Q And, you don't think that the way that PSNH is
5 proposing, Mr. Hall proposed it, is that you would
6 concentrate on, well, the two segments, a six-month
7 basically "stay in" provision, and that they only be
8 prevented from going back out to the same supplier,
9 and you don't think that that's enough protection?
10 You think in both cases it has to extend to all other
11 competitive suppliers and the 12 months?

12 A Okay. That's certainly the OCA's preference is
13 twelve months, all suppliers. The way PSNH's was
14 written, I think there is even a question of
15 affiliates of a competitive supplier, or two
16 affiliates, can they bounce back and forth, two
17 affiliates or six affiliates.

18 **CHAIRMAN GETZ:** All right. Redirect,
19 Ms. Hatfield?

20 **MS. HATFIELD:** Yes. Thank you.

21 **REDIRECT EXAMINATION**

22 BY MS. HATFIELD:

23 Q Mr. Traum, following up on one of Staff's questions,
24 I think they were getting at how the Commission

[Witness: Traum]

1 should consider addressing this issue, whether it is
2 a supplier who is potentially gaming the system
3 versus a customer who is trying to game the system.
4 And, is it fair to say that, in the option -- the
5 preferred option that you've suggested in your
6 testimony that it doesn't really matter who is trying
7 to game the system, but that the proposal that's in
8 your testimony would help prevent gaming regardless
9 of who's trying to do it?

10 A I think that's a fair summary.

11 Q And, the other thing, I wanted to ask you about
12 Exhibit 3, which was -- which is the paper that PSNH
13 presented today on the forecasted costs to serve the
14 two main different classes of customers. I was
15 wondering, in the brief time that you've had to look
16 at that document, if you had any thoughts on its
17 usefulness in this docket or as to how much weight
18 the Commission should give to it or other things that
19 you think needs to be considered when looking at it?

20 A Certainly. The first time I saw this was the same
21 time as the Commission saw this document. So, it was
22 quite a surprise. I haven't had any opportunity at
23 all to really analyze it. So, I don't think the
24 Commission should give it much weight at this point

[Witness: Traum]

1 in time. And, I believe, as had been stated, this
2 was looked at before any migration takes place, so
3 that it ignores what's been the real concern in this,
4 is the migration aspect of the costs and what that
5 does to costs.

6 The other thing I'll throw out, and I've
7 thrown out in many instances, and I'm sure the
8 Commission is sick of hearing me say it, is that
9 small customers are paying a higher Stranded Cost
10 Charge than large customers. And, there are many
11 reasons the Commission approved that, but, say, well,
12 maybe one of them is that the load factors differ
13 between classes. And, that's what I think this, in
14 fact, shows, load factor on a monthly basis.

15 **MS. HATFIELD:** Thank you.

16 **CHAIRMAN GETZ:** Okay. Then, that's all
17 for the witness. Thank you, Mr. Traum. Are there other
18 witnesses, Ms. Amidon?

19 **MS. HATFIELD:** No thank you.

20 **MS. AMIDON:** Excuse me.

21 **CHAIRMAN GETZ:** You are not proffering a
22 witness today, is that correct?

23 **MS. AMIDON:** No, that's correct.

24 **CHAIRMAN GETZ:** Is there any objection

1 to striking identifications and entering the exhibits as
2 full exhibits?

3 (No verbal response)

4 **CHAIRMAN GETZ:** Then, they will be
5 entered as full exhibits. Mr. Eaton.

6 **MR. EATON:** Mr. Chairman, there's a
7 couple of procedural matters that I'd like to address at
8 this time. The first of which is a motion for protective
9 order, which we filed this morning. It concerns a data
10 request that was not entered into the record, but it was
11 filed with the Commission under the new rules, which allow
12 the party to represent that this information is
13 confidential and file a motion for protective order. This
14 is a request that's been asked in previous proceedings and
15 previously we received a protective order. It has to do
16 with the actual dates and duration of our planned
17 scheduled outages. And, that information is provided to
18 ISO-New England, but is kept confidential and not public
19 information. And, it would give a supplier an advantage
20 if they knew exactly those dates, in order to know what
21 times we need supplemental power to replace our base load
22 generation that's doing scheduled maintenance. So, I just
23 bring that up that it was supplied this morning before the
24 hearing, and if the Commission would rule on it in its

1 final order.

2 The second item I want to raise has to
3 do with a discovery dispute that took place, and "dispute"
4 may give it more than it deserves, as far as the
5 controversy. However, PSNH asked questions of
6 Constellation in this proceeding, and we asked questions
7 of Freedom Energy. Freedom Energy responded to our
8 questions and Constellation objected to our questions.
9 The main question we were looking at, for the purposes of
10 studying migration, for the purposes of actually having a
11 -- the best possible data to calculate an energy rate was
12 to know "How many kilowatt-hours are you planning on
13 serving PSNH customers in 2007? What migration do you see
14 coming to your company, as opposed to PSNH supplying under
15 Energy Service?"

16 Constellation objected on the basis of a
17 decision that the Commission made in the City of Nashua
18 case that an intervenor that doesn't supply testimony is
19 not subject to discovery. And, they also objected on the
20 idea that this information is confidential and that it
21 wasn't relevant to the proceeding. So, rather than have
22 PSNH file a motion to compel and argue those points, which
23 we don't concede, we met together, and the Staff acted as
24 a mediator of those discussions. And, Staff brought out

1 the point that just getting Constellation's number doesn't
2 give you the whole picture of what's going on in 2007.

3 There are other competitive suppliers who are registered
4 to do business with the Commission in PSNH's territory.

5 So, we have drafted some recommendations
6 that we will finalize, and also ask the OCA to look at as
7 well, that would set up a system where PSNH could request
8 the Commission to ask competitive suppliers to supply an
9 estimate of what they would supply in PSNH's service
10 territory for the year 2008. We'll make that request in
11 mid year 2007. And, have that information supplied to the
12 Staff in confidence, and the Staff would then aggregate
13 the information and supply it to PSNH in confidence. And,
14 we would use it to help make our calculation of the rate a
15 little bit more accurate for the year 2008, because we
16 might have a better idea of how many customers would
17 remain off the system, who were off the system on 2007, or
18 any more that might leave in 2007. So, it wouldn't be
19 customer-specific estimates, but all the information would
20 be aggregated and supplied to PSNH to help us make a
21 better calculation of the rate. So, we will be working on
22 a written recommendation to the Commission and file that
23 at a later point for your consideration.

24 **CHAIRMAN GETZ:** Any response to either

1 of these issues from the other parties?

2 **MR. CAMERINO:** I would just note for the
3 record on the motion of confidential treatment, that's
4 similar to something PSNH has filed in other Energy
5 Service dockets, and Constellation does not plan to file
6 an objection to that. And, I think Mr. Eaton's
7 description of the discovery dispute and its resolution
8 was correct, and PSNH already has the historical
9 information of what suppliers serve, but what they're
10 seeking is the projected information for the coming year,
11 and that's what's confidential. The historical
12 information is confidential as well, but PSNH doesn't
13 release that publicly. The projected information is
14 confidential as well. And, conceptually, what PSNH is
15 proposing would enable Constellation to ensure that that
16 information remains confidential, but gets to PSNH in a
17 form that is meaningful for them.

18 **CHAIRMAN GETZ:** Anyone else?

19 **MS. AMIDON:** Well, Staff doesn't have
20 any objection to the motion for confidential treatment.
21 And, again, I'd agree with Mr. Camerino that Mr. Eaton
22 explained that we did meet to try to resolve that
23 discovery dispute. And, while we haven't worked out the
24 mechanisms, I should say we have agreed on the principles

1 and on the concept of providing this information to the
2 Commission would probably assist in being able to provide
3 it in the aggregate to PSNH, but it would also provide the
4 Commission with information on the competitive market that
5 it may find useful in other policy decisions.

6 **CHAIRMAN GETZ:** All right. Is there
7 anything else, before the opportunity for closing
8 statements? Commissioner Below.

9 **CMSR. BELOW:** Thank you, Mr. Chairman.
10 At the start of the hearing this morning, Ms. Amidon made
11 a reference to a letter filed by Mr. Rodier. In our
12 docket description, the only letter we have reference to
13 is his original motion for intervention. I was wondering
14 if she was aware of another letter that has been filed
15 more recently concerning the proceeding today?

16 **MS. AMIDON:** Yes. I think that Mr.
17 Eaton is giving it to you right now.

18 **CMSR. BELOW:** Okay.
19 (Atty. Eaton distributing documents.)

20 **MS. AMIDON:** It's a letter dated
21 November 16th.

22 **MR. EATON:** That letter I don't believe
23 is signed, but it was scanned into our system, and I
24 brought copies with me today.

1 **CHAIRMAN GETZ:** Okay. Well, we will
2 wait to see if an official copy makes its way into the
3 docket book. Is there anything else before closing
4 statements then?

5 (No verbal response)

6 **CHAIRMAN GETZ:** Mr. Camerino.

7 **MR. CAMERINO:** Thank you, Mr. Chairman.
8 The Consumer Advocate has expressed their concern in the
9 docket about migration, and that is what they're concerned
10 about, migration, not just gaming. And, they, at this
11 point, haven't provided any evidence that gaming of a sort
12 that the Commission ought to be concerned about is going
13 on. I don't think that the Commission should be taking
14 action in response to migration, which was the whole
15 purpose, after all, of restructuring the market, was to
16 get customers to move into the competitive supply market.
17 And, if we have an active, vibrant competitive market,
18 that costs will go down. If the competitive market is
19 stillborn, we're not going to see a reduction in costs.
20 So, the basic purpose, even as the OCA says, of trying to
21 reduce costs through a competitive market, won't be
22 achieved. You will never get a chance to get there if you
23 stifle migration just as it's getting started.

24 Up to now we have seen very limited

1 migration. 2006 is the first year, as Mr. Hall indicated,
2 that there has really been a significant shift, and even
3 that is fairly limited. Ironically, during that year,
4 we've had a significant overrecovery of costs, not a cost
5 shifting, but a significant overrecovery. And, I don't
6 want to make the argument here, and I'm not making the
7 argument that the overrecovery is somehow entirely due to
8 the fact that we had migration, but it is a complex issue.
9 And, only a couple of years ago this Commission created a
10 credit mechanism to try to entice customers to go into the
11 competitive market, so that PSNH could reduce their
12 supplemental market purchases necessary to serve their
13 entire load. Now we're talking about putting in place a
14 policy that would make it more difficult to shift off.

15 So, there are competing interests here,
16 and it's a complicated matter, and where there's no
17 evidence of a problem. I think it's a mistake to add
18 precipitously. I would argue that what has occurred this
19 year is a success story, and we ought to be applauding
20 that and trying to encourage more of it, not immediately
21 having a knee-jerk reaction to try to stem that flow.

22 As was indicated during the testimony,
23 and as the Commission is painfully aware, that the
24 restructuring statute has a lot of principles. And,

1 anybody could pick any one of them to try to support their
2 argument. The point is to balance all of those very
3 carefully. And, I think right now, at the very moment
4 that the competitive market is getting started, would be
5 the wrong time to put in place a policy that might slow
6 that progress.

7 With that said, if the Commission were
8 to adopt a anti-gaming policy, and Constellation strongly
9 requests that the Commission not do that at this time, it
10 would prefer the proposal that PSNH has submitted in its
11 testimony. I want to stress that not even PSNH is
12 supporting that proposal. They're just saying, "if you're
13 going to do something, that's what you ought to do." But
14 I don't think that a policy of this sort has been fleshed
15 out enough. Certainly, one thing that Constellation is
16 concerned about is there are circumstances, like
17 administrative errors, either by the utility or the
18 company or by the supplier, where somebody is incorrectly
19 knocked off of their supplier service. There may be other
20 types of minor, but important, technicalities that need to
21 be addressed if you implement a policy.

22 I also would suggest that there are
23 other options for addressing the concern that the Consumer
24 Advocate has. We explored a couple of those on

1 cross-examination of Mr. Traum, and he discussed them in
2 his testimony. I understand that those approaches are
3 complicated, they would take a lot more work. PSNH
4 doesn't necessarily support them. But this Commission is
5 very used to dealing with complicated issues, especially
6 with regard to the competitive market, doing cost
7 allocation studies and things like that, to get it right,
8 rather than putting a quick Band-Aid that creates a
9 problem where none exists. And, so, we would encourage
10 the Commission, at most, to study this further, but not
11 take any action at this time. Thank you.

12 **CHAIRMAN GETZ:** Thank you. Ms.
13 Hatfield.

14 **MS. HATFIELD:** Thank you. The OCA
15 agrees with much of what Mr. Camerino has said about the
16 complexity of the issue and the balancing that the
17 Commission must undertake. And, we do support rules and
18 policies consistent with our current statutes on
19 restructuring, that encourage the development of a
20 competitive market, which includes migration for those
21 customers who can choose. But we believe that rules need
22 to be in place to ensure that the development of the
23 competitive market does not shift any costs to those
24 customers who are not able to participate. And, we agree

1 with the Chairman's description of this issue, that we're
2 trying to address a structural flaw, that we think the
3 Commission does need to be proactive in order to ensure
4 that non-choosing customers do not have to subsidize any
5 costs related to migration.

6 We also think that, regardless of
7 whether gaming was taking place as a result of a
8 customer's activity or something that was being done by
9 suppliers is not very relevant, and that the option that
10 we have proposed, that would be the first option in Mr.
11 Traum's testimony that would create a 12-month requirement
12 of staying on Energy Service, would prevent gaming
13 regardless of who was trying to game the system. And, so,
14 as a result, we would request that the Commission be
15 proactive and prevent that type of activity from
16 occurring.

17 **CHAIRMAN GETZ:** Ms. Amidon.

18 **MS. AMIDON:** Thank you. Staff has
19 reviewed the rate mechanisms and calculations and we
20 support the Energy Service rate that PSNH developed and
21 filed in its November 17th filing. With respect to the
22 issue of gaming, Staff is concerned that there is no
23 evidence of gaming, and we don't know if this has been
24 said before, but there are unintended consequences to

1 imposing the OCA's 12-month restriction. It could have
2 the effect we're concerned of hindering competition, and
3 competition, as we know, is not very robust in this state
4 at this point. We think it reflects some of the comments
5 that Attorney Camerino made, and, insofar as that goes, I
6 think we agree with him.

7 However, we also think that perhaps the
8 Commission would benefit from receiving quarterly reports
9 from PSNH on what migration that they're seeing, what
10 customers -- what customers they're seeing move from PSNH
11 to a competitive supplier, how many megawatts that
12 represents, so that the Commission can have information
13 from both sides. First, with what we propose in response
14 to PSNH's data requests from Constellation. And, then,
15 secondly, the Commission, in this order in this case,
16 could require PSNH to make those reports on a quarterly
17 basis to the Commission to get more complete information
18 on migration.

19 And, I would suggest that, in the
20 upcoming dockets with Unitil and with Grid, the Commission
21 could also request that such information be made available
22 on a regular basis, so that we probably will have a better
23 idea of whether there is something like gaming or
24 strategic moving of customers going on. Absent that kind

1 of information, we're reluctant to even recommend PSNH's
2 six-month alternative to address a problem which
3 apparently there's no evidence it exists.

4 And, finally, as I suggested in my
5 questioning of Mr. Traum, there is another docket, the
6 docket investigating the federal standards in the Energy
7 Policy Act of 2005, where the Commission has to take
8 action by August 5th, 2007 regarding metering. And, there
9 are ways in that docket to address kind of -- to address
10 the costs to make sure that customers are paying the
11 actual costs of their service that could avoid, and this
12 is leaving gaming aside, it could avoid the cost shifting
13 that the OCA is concerned about for those non-changing
14 customers.

15 So, having said that, we, you know, we
16 urge you to take great caution in fashioning anything that
17 might impede competition, and suggest that perhaps the
18 Commission needs more information from both the utilities
19 and the competitive energy suppliers in order to make a
20 really well-informed decision about what corrections to
21 make to any structure flaw. Thank you.

22 **CHAIRMAN GETZ:** Thank you. Mr. Eaton.

23 **MR. EATON:** Mr. Chairman, first of all,
24 we request that the Commission approve the proposed rate

1 of 8.59 cents per kilowatt-hour. And, with respect to the
2 issue of gaming, we agree that we ought to wait and see.
3 There's been some evidence presented in this proceeding
4 about what's happened in 2006. But I think the reporting
5 ought to start with 2006. Let's have it -- This is the
6 first year where actually we've had significant migration.
7 And, I think the way of tracking it is not from January
8 1st, 2007 forward, but let's see how many customers did
9 move this year and see what those customers do next year
10 as well. So, we'd be very glad to report on a quarterly
11 basis about migration of customers.

12 The idea of cost shifting is not -- not
13 well documented, as far as I'm concerned. As Mr. Camerino
14 pointed out, at some point we wanted customers off the
15 system, because they could take nine cent power that we
16 bought on the market off of our system. And, quite
17 simplistically, if we could take that 30 percent that we
18 buy off system and reduce it to 10 percent, our costs
19 would go down for the customers who remain. But that's
20 oversimplifying the matter, too, because those customers
21 could come back on whenever they wanted and could also
22 never contribute to the fixed costs of generation and
23 maintenance on those generators. So, it's still unclear
24 as to what happens when a customer leaves, whether they

1 take high costs off of our system or whether they impose
2 costs on other -- higher costs on other customers.

3 No matter what -- if you decide to
4 choose an anti-gaming proposal, I think you ought to make
5 the initial decision as to whether it applies
6 prospectively. There are customers who have left the
7 system. And, if -- they don't know that the rules might
8 be changing as of December of 2006. So that, by coming
9 back on the PSNH system, they're there for a year, if you
10 adopt the OCA's position, or that they cannot return to
11 their current supplier for six months, if you adopt the
12 PSNH proposal. So, I think we ought to have these rules,
13 if you decide to adopt the proposal, that they ought to
14 apply prospectively to customers who make that decision to
15 leave in 2007, and not the ones who already have, when the
16 anti-gaming proposals were not even fleshed out when they
17 made their decision.

18 Thank you. That's all I have.

19 **CHAIRMAN GETZ:** Okay. Then, we will
20 close this hearing and take the matter under advisement.
21 Thank you.

22 **(Hearing ended at 11:43 a.m.)**

23

24