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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

November 28, 2007 - 10:06 a.m.
Concord, New Hampshire

RE: DE 07-096
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE:
Proposed Default Energy Rate for 2008.

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

Connie Fillion, Clerk

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

Reptg. Constellation NewEnergy and
Constellation Commodities Group:
Steven V. Camerino, Esq. (McLane, Graf...)

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

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{DE 07-096} (11-28-07)

1 P R O C E E D I N G S

2 CHAIRMAN GETZ: Good morning. We'll
3 open the hearing in docket DE 07-096. On September 7,
4 2007, Public Service Company of New Hampshire filed with
5 the Commission a petition to establish its Default Energy
6 Service Rate for bills rendered on or after January 1,
7 2008. An order of notice was issued on September 25
8 scheduling a prehearing conference that was held on
9 October 9th. Subsequently, a secretarial letter was
10 issued approving a procedural schedule resulting in the
11 hearing this morning.

12 Can we take appearances please.

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

16 CMSR. BELOW: Good morning.

17 CMSR. MORRISON: Good morning.

18 CHAIRMAN GETZ: Good morning.

19 MR. CAMERINO: Good morning,
20 Commissioners. Steve Camerino, from McLane, Graf,
21 Raulerson & Middleton, on behalf of Constellation
22 NewEnergy and Constellation Commodities Group. And, with
23 me today are Daniel Allegretti and Michael Kaufmann, both
24 of Constellation.

{DE 07-096} (11-28-07)

1 CHAIRMAN GETZ: Good morning.

2 CMSR. BELOW: Good morning.

3 CMSR. MORRISON: Good morning.

4 MS. HATFIELD: Good morning,

5 Commissioners. Meredith Hatfield, for the Office of
6 Consumer Advocate, on behalf of residential ratepayers.

7 And, with me this morning is Ken Traum, the Assistant
8 Consumer Advocate.

9 CHAIRMAN GETZ: Good morning.

10 CMSR. MORRISON: Good morning.

11 CMSR. BELOW: Good morning.

12 MS. AMIDON: Good morning. Suzanne
13 Amidon, for Commission Staff. And, with me today is Steve
14 Mullen, a Utility Analyst with the Electric Division, who
15 is the principal analyst on this docket.

16 CHAIRMAN GETZ: Good morning.

17 CMSR. MORRISON: Good morning.

18 CMSR. BELOW: Good morning.

19 CHAIRMAN GETZ: Are there any matters we
20 need to address before the Company proceeds?

21 MR. EATON: I don't think so.

22 CHAIRMAN GETZ: Hearing nothing, then,
23 Mr. Eaton.

24 MR. EATON: I'd like to call to the

[Witness panel: Baumann|Hall|Labrecque]

1 stand Robert Baumann, Stephen Hall, and Richard Labrecque.

2 (Whereupon Robert A. Baumann, Stephen R.

3 Hall and Richard C. Labrecque were duly

4 sworn and cautioned by the Court

5 Reporter.)

6 MR. EATON: Mr. Chairman, before we

7 begin, there was testimony filed by Constellation

8 NewEnergy and Constellation Energy Commodities Group.

9 And, our witnesses would like to testify in rebuttal to
10 some of those points. It won't be lengthy. I just would
11 like the Commission's direction as to whether we should do
12 it now or wait till the Constellation testimony is done,
13 and I would recall Mr. Hall and Mr. Labrecque for some
14 rebuttal.

15 CHAIRMAN GETZ: Is there any position
16 from the parties on the process? Mr. Camerino.

17 MR. CAMERINO: I think, both for
18 efficiency and maybe for benefit of cross-examination, it
19 would be better if Mr. Hall did it while he's on the stand
20 now. My primary concern is just to indicate that we,
21 obviously, have not had a chance to do any discovery on
22 what Mr. Hall is going to say. And, it's our
23 understanding that the Constellation proposal in this case
24 is really being presented to the Commission for

[Witness panel: Baumann|Hall|Labrecque]

1 determination as to whether the Commission should open a
2 separate proceeding to consider it, not that it would be
3 making a ruling on the merits. And, so, I would hope that
4 any rebuttal would be of that nature, rather than
5 extensive detailed testimony that really requires
6 discovery.

7 CHAIRMAN GETZ: All right. Well, I
8 think, for efficiency sake, we'll allow the oral rebuttal
9 now. And, then, depending on the content of that
10 rebuttal, we'll determine how to proceed after that.

11 MR. EATON: Thank you, Mr. Chairman.

12 ROBERT A. BAUMANN, SWORN

13 STEPHEN R. HALL, SWORN

14 RICHARD C. LABRECQUE, SWORN

15 DIRECT EXAMINATION

16 BY MR. EATON:

17 Q. Mr. Hall, would you please state your name for the
18 record.

19 A. (Hall) Stephen R. Hall.

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

21 A. (Hall) I'm employed by Public Service of New Hampshire.
22 I am Rate and Regulatory Services Manager.

23 Q. And, what are your duties in that position?

24 A. (Hall) I'm responsible for regulatory relations, rate

[Witness panel: Baumann|Hall|Labrecque]

1 design, pricing, and tariff administration.

2 Q. And, did you participate in the preparation of
3 testimony and data requests in this proceeding?

4 A. (Hall) Yes, I did.

5 Q. Have you testified before the Commission before?

6 A. (Hall) Yes, I have.

7 Q. Mr. Baumann, would you please state your name for the
8 record.

9 A. (Baumann) My name is Robert Baumann.

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

11 A. (Baumann) I am the Director of Revenue Regulation and
12 Load Resources for Northeast Utilities Service Company.

13 Q. And, what are your duties in that position?

14 A. (Baumann) My duties, in part, are I'm responsible for
15 revenue requirement calculations in filings with Public
16 Service Company of New Hampshire, for both general rate
17 proceedings, as well as mechanism such as the Energy
18 Service and the Stranded Cost Recovery Charge.

19 Q. Mr. Baumann, do you have in front of you a multipage
20 document with a cover letter from myself to Debra
21 Howland, dated September 7, 2007, and it's -- the
22 subject is "Proposed Default Energy Service Rate for
23 2008"?

24 A. (Baumann) Yes.

[Witness panel: Baumann|Hall|Labrecque]

- 1 Q. And, could you describe that filing please.
- 2 A. (Baumann) That filing has a -- is the support for the
3 initially filed Energy Service Rate for 2008 of 8.56
4 cents per kilowatt-hour.
- 5 Q. Mr. Labrecque, could you please state your name for the
6 record.
- 7 A. (Labrecque) Richard Labrecque.
- 8 Q. And, what is your position and for whom are you
9 employed?
- 10 A. (Labrecque) I'm a Principal Engineer in the Wholesale
11 Power Contracts Department of Northeast Utilities
12 Service Company.
- 13 Q. And, what are your duties in that position?
- 14 A. (Labrecque) I provide support for the various wholesale
15 procurements that each of the operating companies
16 conduct, including the procurement of supplemental
17 energy for Public Service of New Hampshire.
- 18 Q. And, did you prepare testimony, which was appended to
19 the document that Mr. Baumann described, that was filed
20 with the Commission on September 7th?
- 21 A. (Labrecque) Yes.
- 22 Q. And, is that testimony true and accurate to the best of
23 your knowledge and belief?
- 24 A. (Labrecque) Yes.

[Witness panel: Baumann|Hall|Labrecque]

1 Q. Do you have any corrections to make to it?

2 A. (Labrecque) No.

3 Q. Mr. Baumann, you had some testimony in that document.

4 Was that true and accurate to the best of your

5 knowledge and belief?

6 A. (Baumann) Yes.

7 Q. Do you wish to make any corrections to it?

8 A. (Baumann) No.

9 MR. EATON: Could that please be marked
10 as "Exhibit 1" for identification?

11 CHAIRMAN GETZ: Be so marked.

12 (The document, as described, was
13 herewith marked as Exhibit 1 for
14 identification.)

15 BY MR. EATON:

16 Q. Mr. Baumann, was there an update to that filing of
17 September 7th?

18 A. (Baumann) Yes. On November 21st, 2007, we filed an
19 update to the first proposed rate. And, we proposed a
20 final rate for 2008 Energy Service of 8.82 cents per
21 kilowatt-hour.

22 Q. And, is that contained in a document, a multipage
23 document with a cover letter of November 21st, 2007,
24 from myself to the Executive Director, and say "Default

[Witness panel: Baumann|Hall|Labrecque]

1 Energy Service Rate Docket Number DE 07-096"?

2 A. (Baumann) That's correct.

3 Q. And, this contains the updates of the original filing,
4 correct?

5 A. (Baumann) Yes, it contains all the workpaper
6 calculations for the revenue requirement calculation
7 for Energy Service, as well as a Joint Technical
8 Statement from myself and Mr. Labrecque to support the
9 filing.

10 Q. Mr. Hall, is there also a technical statement by you
11 and Mr. Baumann attached to that?

12 A. (Hall) Yes, there is.

13 MR. EATON: Could we have this marked as
14 "Exhibit 2" for identification?

15 CHAIRMAN GETZ: It's so marked.

16 (The document, as described, was
17 herewith marked as Exhibit 2 for
18 identification.)

19 BY MR. EATON:

20 Q. Mr. Baumann, could you summarize the initial filing and
21 how it relates to the previous rate that's currently in
22 effect?

23 A. (Baumann) Certainly. Currently in effect is an Energy
24 Service Rate of 7.83 cents per kilowatt-hour. That

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[Witness panel: Baumann|Hall|Labrecque]

1 rate was changed on July 1st of 2007 to reflect a
2 decrease in current costs in the Energy Service area.
3 So, it rolled in an anticipated overrecovery of
4 approximately 29 million. And, that's why the rate is
5 as low as it is, 7.83 cents per kilowatt-hour. When we
6 revised the rate -- not "revised the rate", when we
7 proposed the new rate for 2008 on Exhibit 1, which is
8 the September 7th filing, we increased it from 7.83 to
9 8.56 cents per kilowatt-hour. And, the majority of
10 that increase was really reflecting the fact that the
11 large overrecovery credit that was keeping the rate
12 down mid year was, obviously, going away, because it
13 was being refunded over six months. So, that's the
14 lion's share of the increase to the initially proposed
15 8.56 cents per kilowatt-hour rate on September 7th.

16 Subsequent to that, again as I
17 mentioned, we filed the final proposed rate of 8.82
18 cents on 11/20, November 20 -- excuse me,
19 November 21st. And, that increase is, really, there's
20 I'd say three main increases -- reasons for that
21 increase. First, and probably in order of
22 significance, there was a fundamental increase, if you
23 will, in overall market prices, which Mr. Labrecque
24 could speak to in more detail, that increased some of

[Witness panel: Baumann|Hall|Labrecque]

1 the purchase power obligations that we predict or
2 forecast for 2008. There were also some coal cost
3 increases as a result of certain items in the coal
4 market. And, the largest piece was, in the original
5 filing, we had included net obligations of 12.2 million
6 that were generation-related that, in subsequent
7 discussions with the parties, we agreed to move to the
8 Stranded Cost Recovery Charge, and that was over --
9 that was \$12.2 million. So, all three of those items
10 increased market prices, coal costs, and then moving
11 net credit obligations out of the Energy Service Rate
12 from what we had originally filed on September 7th all
13 -- all accounted for the increase in the rate that we
14 are now proposing today of 8.82 cents per
15 kilowatt-hour.

16 Q. Mr. Labrecque, are you familiar with the proposal that
17 was made jointly by PSNH, the Office of Consumer
18 Advocate, and the Staff concerning certain reporting
19 requirements?

20 A. (Labrecque) Yes, I am.

21 Q. And, do you have a copy of a document with a cover
22 letter dated September 14th, 2007, addressed to the
23 Executive Director and Secretary from Staff Attorney
24 Suzanne Amidon?

[Witness panel: Baumann|Hall|Labrecque]

1 A. (Labrecque) Yes, I have it right here.

2 Q. And, does that reflect the joint proposal for supplying
3 competitive market data that you are familiar with?

4 A. (Labrecque) Yes, it does.

5 MR. EATON: Could we have that marked as
6 "Exhibit 3" for identification?

7 CHAIRMAN GETZ: Be so marked.

8 (The document, as described, was
9 herewith marked as Exhibit 3 for
10 identification.)

11 BY MR. EATON:

12 Q. Mr. Labrecque, regarding Exhibit 3, how would the
13 adoption of that help you in your work preparing an
14 estimate of the Default Energy Service Rate?

15 A. (Labrecque) Well, to the extent we receive some, you
16 know, credible information related to this proposal in
17 a timely manner, we could utilize that to eliminate or
18 partially eliminate some of the uncertainties
19 surrounding our load forecast, when we go about
20 procuring supplemental power for Energy Service. I
21 mean, it would be an improvement to the process we
22 currently use. We currently have information available
23 to us that enables us to do some forecasting, some
24 prediction of the rate period. But this would -- this

[Witness panel: Baumann|Hall|Labrecque]

1 would provide some marginal improvement to that
2 process.

3 Q. Now, when you prepare your estimates, do you know that
4 you have certain supply -- let me back up. How do you
5 prepare your estimates of the cost of power?

6 A. (Labrecque) Well, how much detail do you want me to go
7 into? What specific phase of it to focus on?

8 Q. Well, the supplemental power, when you prepare your
9 estimates for Exhibit 1, that's going to be filed on
10 September 7th, how much do you know?

11 A. (Labrecque) We've got a base sales forecast that we
12 utilize and we've got migration experience. We know
13 the ebb and flow of customers based on, you know, who's
14 actually been gone over time. From that, we're able to
15 project some form of baseline migration that we would
16 anticipate in the subsequent rate year. That portion
17 of load, in the case of 2008's filing, we remove from
18 the base sales forecast. There's also been some
19 observed pattern of migration. It's uncertain whether
20 the pattern repeats, obviously, year after year, but
21 we've got a handle on, at least to date, the maximum
22 amount of customer migration that's occurred to date.
23 That's not to say that that can't increase also. But
24 the portion between the base amount of migration that

[Witness panel: Baumann|Hall|Labrecque]

1 we predict and the maximum, we have elected, instead of
2 hedging that with firm bilateral purchases, we either
3 leave a portion of it unhedged at the time of the
4 filing or hedge it with a call option, such that we do
5 not need to enter into a firm fixed price contract for
6 load that could potentially migrate throughout the
7 year.

8 Q. Have you entered into bilateral contracts by the time
9 that you make your September 7th filing?

10 A. (Labrecque) We enter into bilateral contracts
11 throughout the year. By the September 7th filing, we
12 had done a significant portion of our hedging for 2008.

13 Q. And, have you done more since then?

14 A. (Labrecque) Yes, we have.

15 Q. And, what's left to be done as far as your supply
16 portfolio for 2008?

17 A. (Labrecque) We're still exploring this call option. We
18 have not executed or made a final arrangement for the
19 call option to address the variable piece of the
20 customer migration. We also do have some portion of
21 our load currently unhedged, by design. We'll address
22 that as we go forward throughout the year.

23 Q. Does PSNH add a risk premium to its portfolio?

24 A. (Labrecque) No, everything in there is at cost. The

[Witness panel: Baumann|Hall|Labrecque]

1 remaining unhedged supplemental energy is in there at
2 -- essentially current market prices are used as a
3 proxy for the expense associated with those. But we do
4 not apply any -- any risk premium.

5 Q. Now, regarding just the supplemental power that PSNH
6 needs to purchase beyond its generating assets and
7 entitlements, does PSNH add a profit to its
8 supplemental energy supplies?

9 A. (Labrecque) No.

10 Q. That's a pass-through dollar-for-dollar?

11 A. (Labrecque) Correct.

12 Q. Mr. Hall, what has been PSNH's experience of over and
13 under recoveries for the past two calendar years?

14 A. (Hall) Well, as a result of the process PSNH has
15 entered into, which is, as Mr. Labrecque just
16 explained, to buy a significant portion of its
17 shortfall in advance over a period of time, what we see
18 in the last couple of years is that over recoveries
19 have decreased, over or under recoveries, I should say,
20 have decreased substantially than what they were when
21 we first entered into restructuring when the market
22 first changed. Part of the reason that we engaged in
23 the strategy of trying to purchase more power in
24 advance over time was at the urging of Constellation.

[Witness panel: Baumann|Hall|Labrecque]

1 Constellation maintained that large over and under
2 recoveries distorted the market. So, PSNH, in
3 consultation with Staff and OCA, undertook efforts to
4 try to purchase power in advance over time, taking
5 advantage of fluctuations in the market, to ensure that
6 it could have more predictability in its costs. And,
7 what we've seen is, over the last two years, over or
8 under recoveries have been less than 5 percent of total
9 costs. In fact, they have been in the range of
10 3 percent. So, the results have significantly improved
11 as a result of the strategy that PSNH has implemented.

12 Q. And, would you agree with Mr. Labrecque that, if we had
13 the information supplied that's described in Exhibit 3,
14 the joint proposal, that we would continue to minimize
15 over and under recoveries?

16 A. (Hall) It would be helpful, yes.

17 Q. Mr. Hall, could you generally describe your
18 understanding of the Constellation proposal in this
19 proceeding?

20 A. (Hall) Sure. My understanding of what Constellation is
21 proposing is they're essentially saying that they want
22 the Commission to abandon the process that we've
23 undertaken over the last several years, i.e. purchasing
24 blocks of power in advance over time, and take that

[Witness panel: Baumann|Hall|Labrecque]

1 piece of load and essentially put it out to bid in the
2 market. And, on a specific day, we would make a
3 decision as to what the price might be for that portion
4 of the load.

5 PSNH has some significant concerns with
6 this. And, our concerns relate to the cost involved to
7 customers. Essentially, what Constellation is asking
8 the Commission to do is to decide between putting the
9 shortfall out to bid to be supplied by entities who
10 have a profit motive, versus having PSNH continue to do
11 what it's been doing, where PSNH's motive is cost
12 minimization. Now, there's nothing wrong with having a
13 profit motive. I don't want to make it sound like
14 they're wrong to have that motive. It's perfectly
15 understandable. However, I think the issue facing the
16 Commission is, "which approach is better for
17 customers?"

18 When a supplier goes out to make these
19 bids, they're going to have to include a lot of hedge
20 products in their bid, as Constellation stated in
21 testimony, and they're also going to have to include a
22 profit margin, because they want to make sure that, to
23 the maximum extent possible, they're making money for
24 their stockholders. PSNH, on the other hand, has a

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[Witness panel: Baumann|Hall|Labrecque]

1 sole objective of minimizing the cost to customers.

2 And, that's really the difference between the two.

3 And, I think, in making this decision,
4 what the Commission has to look at is, "what have the
5 results to date shown?" And, in particular, over the
6 last couple of years, when PSNH, through discussion
7 with Staff and OCA, has continually refined its
8 process, are those results acceptable to customers or
9 should we discard that process and come up with a new
10 process where you put the shortfall out to bid to
11 suppliers, whose motive is to maximize a profit?

12 Now, to me, common sense tells me that,
13 if you insert a third party into the process, whose
14 motivation is to maximize profit, it seems to me that
15 you can't have a lower cost as a result. That the cost
16 is going to have to be higher. The difficulty that the
17 Commission's going to face is that, once you discard
18 one process and implement another process, there's no
19 way to compare the two. There's no way to say "well,
20 had we done this, it would have been cheaper." So,
21 you're faced with a difficult decision.

22 I think that the process that we've got
23 in place has been working extremely well at minimizing
24 costs. There is some risk to customers because, as

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[Witness panel: Baumann|Hall|Labrecque]

1 Mr. Labrecque said, a small piece of our shortfall is
2 unhedged, but that's intentionally done. And, the
3 reason is that, through discussions with the parties,
4 we want to make sure that we don't fully hedge our load
5 to the extent that we'd have too much power on hand if
6 a lot of customers suddenly selected a supplier.
7 Secondly, you don't want to fully hedge your load
8 because, in the event that the market does dip in the
9 future, you want to be able to at least get some
10 benefit of those market fluctuations. So, as
11 Mr. Labrecque said, that uncovered piece that we leave
12 is intentional, is done intentionally.

13 Constellation originally came up with
14 this proposal in 2003. And, nothing has changed since
15 then, when the Commission rejected Constellation's
16 proposal and their attempt to modify how we go about
17 procuring our shortfall of power. There's been no
18 change in law, there have been no regulatory changes.
19 In fact, Constellation's proposal today is
20 substantially the same as what it was in 2003. So,
21 from my perspective, I haven't really seen a whole lot
22 that's changed. I don't see any reason to modify the
23 proposal that we have. And, I think the Commission's
24 previous conclusion is still valid. And, I urge the

[Witness panel: Baumann|Hall|Labrecque]

1 Commission to reject what it is that Constellation is
2 proposing, and allow PSNH to continue to do what it's
3 been doing, and thus minimize costs to customers.

4 Q. Mr. Labrecque, does the Commission review your process
5 of putting together a supplemental supply?

6 A. (Labrecque) Absolutely. And, that would be another
7 thing I would disagree with the Constellation testimony
8 that frequently refers to our current process as
9 "lacking transparency". We're available to the
10 Commission 365 days a year. We have tech sessions,
11 settlement conferences, that discuss the ES
12 supplemental procurement. They also perform a review
13 of our supplemental procurement activities at the
14 conclusion of the year in the reconciliation filings.
15 We're also required to file a least cost resource plan
16 every two years. So, yes, they do. They're a partner
17 to the process.

18 Q. And, who conducts that review primarily?

19 A. (Labrecque) The after-the-fact review the last few
20 years has been performed by Staff consultant Mr.
21 Cannata.

22 Q. And, he meets with you and goes over what you did in
23 the previous calendar year?

24 A. (Labrecque) Yes, he does.

[Witness panel: Baumann|Hall|Labrecque]

1 Q. Has he recommended any disallowances for supplemental
2 power that you can remember?

3 A. (Labrecque) Not disallowances, although he's provided
4 us with numerous process improvement suggestions and
5 ideas that we've implemented during the last few years.

6 Q. Mr. Hall, do you feel PSNH is in competition with
7 competitive suppliers, as far as providing Energy
8 Service or even the Supplemental Energy Service?

9 A. (Hall) No.

10 Q. Do you have in your possession any graphic description
11 or showing a difference between Default Service and
12 Market Service?

13 A. (Hall) I have a graph that was created by Granite State
14 Company in a different docket that shows the difference
15 between their price for Default Service from July '05
16 to June '07, and the corresponding price for what they
17 call "Market Service". It's essentially a real-time
18 price.

19 Q. Now, you didn't prepare this document, correct?

20 A. (Hall) I did not.

21 Q. Okay. So, you don't know if it's accurate, because you
22 didn't prepare it?

23 A. (Hall) Correct. Although, Granite State did provide it
24 in a data response, I have to assume that it's

[Witness panel: Baumann|Hall|Labrecque]

1 accurate.

2 CHAIRMAN GETZ: Mr. Eaton, can we see
3 this document?

4 MR. EATON: Oh. I have to retrieve some
5 of them.

6 MS. AMIDON: Do you have enough?

7 MR. EATON: Yes, one more. That's why I
8 had so many copies, I was supposed to give some to you.

9 (Atty. Eaton handing copies to the
10 Chairman and Commissioners.)

11 BY MR. EATON:

12 Q. Mr. Hall, based upon your understanding of Market
13 Service and Default Service, do you have, and assuming
14 this depiction is correct, do you have anything or any
15 suggestion as why the difference between Default
16 Service and Market Service appears to be on this graph?

17 MR. CAMERINO: Mr. Chairman, it's not
18 clear to me, and I understand we're operating under some
19 fairly loose rules here for a number reasons, but it's not
20 clear to me how this line of questioning relates to a
21 proposal to put a portion of the wholesale -- of all of
22 the wholesale market requirements of PSNH out to bid?
23 This appears to relate to retail pricing. So, if it's
24 connected to the RFP proposal, that may be one thing. But

[Witness panel: Baumann|Hall|Labrecque]

1 if it is somehow to try to prove that retail market prices
2 are higher than retail provider-of-last-resort pricing, I
3 don't see how that relates to what we're discussing here
4 today.

5 CHAIRMAN GETZ: Mr. Eaton.

6 MR. EATON: This has to do with exactly
7 what we're talking about today. Default Service for
8 Granite State Electric, I think the Commission could take
9 administrative notice, is a full requirements service.
10 And, it appears, for the -- at least for this class, that
11 it is different from a market service that Mr. Hall
12 described as the market price for these different months.
13 This is what the RFP would produce. It wouldn't produce
14 it for the entire amount, but I think it's probative of
15 why -- why Default Service costs more than just simply
16 tracking the market for the entire year.

17 MR. CAMERINO: And, this is exactly the
18 kind of detailed information that, if we're going to have
19 a separate proceeding on this issue, of whether having an
20 RFP for PSNH's market requirements is a good idea, maybe
21 this type of detailed information will be helpful in that
22 proceeding. I doubt it, but it could be. But we would
23 need to understand what this represents and how it relates
24 to the docket. There's no opportunity to do that here.

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[Witness panel: Baumann|Hall|Labrecque]

1 And, for the Commission to draw some kind of conclusion
2 from this graph with no background, I don't think would be
3 appropriate.

4 CHAIRMAN GETZ: Well, for purposes of
5 the hearing today, I'm going to mark this for
6 identification as "Exhibit 4". And, we've already heard a
7 couple of arguments what weight we should give to this
8 document, and whether we should make some ruling based on
9 it at this time or defer it to a later date. But let's
10 just get the remainder of this on the record.

11 (The document, as described, was
12 herewith marked as Exhibit 4 for
13 identification.)

14 BY MR. EATON:

15 Q. Mr. Hall, can you explain the difference between
16 Default Service and Market Service on Exhibit 4?

17 MR. CAMERINO: Mr. Chairman, are you
18 indicating you're -- that Mr. Eaton can just proceed with
19 whatever questions he has on this subject or are we simply
20 marking the exhibit and moving on?

21 CHAIRMAN GETZ: We're marking it, and
22 going to allow him to continue exploring this issue. But
23 my understanding was the oral rebuttal was going to be
24 brief, is that a fair --

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[Witness panel: Baumann|Hall|Labrecque]

1 MR. EATON: It's almost done. And, it
2 would be brief -- it would be more brief than if it
3 followed Mr. Allegretti's testimony.

4 BY MR. EATON:

5 Q. Mr. Hall, do you remember the question?

6 A. (Hall) I do. This response was prepared by Mr.
7 Zschokke. The difference is that the reason that the
8 Default Service line is higher than the Market Service
9 line --

10 MR. CAMERINO: Excuse me. I apologize.
11 Is Mr. Hall referring to another document? He made
12 reference to "Mr. Zschokke", who I think is an employee of
13 Granite State.

14 CHAIRMAN GETZ: I interpreted what he's
15 saying is that this document is your understanding was
16 prepared by Mr. Zschokke, is that what you were saying?

17 WITNESS HALL: Yes, in a different
18 docket. This is a response by Granite State Company or an
19 attachment to a response by Granite State Company to a
20 Staff data request in the Energy Policy Act docket.

21 CHAIRMAN GETZ: You're concerned, Mr.
22 Camerino, that he's mentioned the author of this document
23 that --

24 MR. CAMERINO: No, that's not the

[Witness panel: Baumann|Hall|Labrecque]

1 question, and I apologize if I'm wrong that he was -- if
2 that's the only information, that's fine. But if he was
3 then going to go on and explain something that Mr.
4 Zschokke had explained to him or that Mr. Zschokke has
5 written in some other part of this response. If it was
6 simply to say that he was the author of it, I have no
7 problem.

8 WITNESS HALL: That was it.

9 BY THE WITNESS:

10 A. (Hall) The difference between the two lines is a result
11 of a risk premium that a supplier has to include in
12 their price for a load-following service. And, that's
13 why that red line, as of November of 2005, is higher
14 than the dashed line.

15 BY MR. EATON:

16 Q. Mr. Baumann, do you have anything to add to your
17 testimony?

18 A. (Baumann) Yes, I do.

19 Q. Okay.

20 A. (Baumann) Very briefly. We mentioned the November 21st
21 filing, which I think was marked as "Exhibit 2", and
22 the Technical Statement of Mr. Hall and myself. I just
23 want to mention and get on the record for the
24 Commission, there are four items in that technical

[Witness panel: Baumann|Hall|Labrecque]

1 statement that only one of which we've talked about
2 today, but I think they're worth noting. Throughout
3 the process of technical sessions and discovery and
4 Staff testimony and OCA testimony, there were four
5 items that, I think, that those three parties, PSNH and
6 the other two, kind of agreed on to make changes in
7 this current ES proposal.

8 The first we've talked about at length
9 is the \$12 million transfer of credits from the ES to
10 the Stranded Cost Recovery Charge filing. Second item
11 that the parties discussed, and PSNH has agreed to, is
12 the exclusion of \$147,000 in costs associated with the,
13 excuse me, the mercury mitigation legislation that PSNH
14 had incurred in a prior year. We had originally sought
15 recovery of that as a generation cost, but have since
16 agreed and have taken it out of the current proposal,
17 and will not recover it or seek to recover it in the
18 future.

19 The third item of significant note is
20 the ROE that is embedded in the generation portion of
21 the Energy Service Charge. The ROE historically has
22 been based on a differential, or, at least currently,
23 is based on a differential between the distribution
24 allowed ROE, with a -- I think it's a 32 point -- 32

[Witness panel: Baumann|Hall|Labrecque]

1 point increase in percent to get to a generation ROE.
2 And, actually, the proposal that the Public Service
3 Company of New Hampshire had followed was to, because
4 of the current increase in the stipulated ROE in the
5 current rate settlement that where rates were --
6 general rates were effected on July 1 of 2007, that we
7 had asked for an increase as well. The parties came to
8 a mutual agreement that we -- that there should be an
9 increase, but only of half of what PSNH had requested,
10 as a compromise through the discussions that we had.
11 So that we do have an increase in the generation ROE
12 that is currently at 9.62 cents [percent?]. It is now
13 in the proposal at 9.81 cents -- excuse me,
14 9.81 percent as an ROE. We had requested 9.99 percent
15 ROE, which we have backed off from.

16 Finally, of significant note, is that,
17 in this Energy Service Rate, we have reflected the
18 agreed upon adjustments from the approved stipulation
19 and settlement in the 2006 Energy Service
20 reconciliation, that was docket 07-057. And, in that
21 settlement, there is a reclassification of
22 approximately 1.1 million in O&M costs out of Energy
23 Service costs and into a capitalized rate base cost for
24 generation, which lowered the overall costs. There's

[Witness panel: Baumann|Hall|Labrecque]

1 also \$4,000 of replacement power costs that has been
2 removed from the Energy Service Charge as a result of
3 recommendations coming out of that audit. I think
4 there were three small hydro -- hydro outages that
5 resulted in \$4,000 of replacement power costs. They
6 will not be recovered. And, there's also a reduction
7 of \$70,000 associated with the coal procurement audit
8 that took place last year and into this year. That
9 again was agreed upon in that stipulation to be not
10 recovered from customers.

11 So, those three items have been excluded
12 from the Energy Service Rate. And, the accounting for
13 those items will take place at the end of this month.
14 The accounting has been delayed -- or not "delayed",
15 but we typically try not to do accounting adjustments
16 until the Commission acts on those proposals, for fear
17 that we do an accounting adjustment that is then
18 rejected by the Commission. But, as soon as the
19 Commission acts on these proposals and they're final,
20 we will make those accounting adjustments. And, they
21 will be made hopefully in the closing of the books in
22 November of 2007. That's all.

23 Q. Mr. Labrecque, do you have anything to add to your
24 testimony?

[Witness panel: Baumann|Hall|Labrecque]

1 A. (Labrecque) No.

2 Q. Mr. Hall, anything to add to your testimony?

3 A. (Hall) I have none.

4 MR. EATON: The witnesses are available
5 for cross-examination.

6 CHAIRMAN GETZ: Thank you.
7 Mr. Camerino.

8 MR. CAMERINO: Thank you.

9 CROSS-EXAMINATION

10 BY MR. CAMERINO:

11 Q. Mr. Baumann, just one housekeeping detail, and I think
12 you covered this on your direct. The technical
13 statement, the updated one, refers to some of the
14 adjustments that the Company made, and I think uses
15 words such as "the Company and the parties agreed".
16 And, in your testimony, you, I think in characterizing
17 what I think the technical statement calls "the
18 parties", you referred to the "Staff and the Consumer
19 Advocate". That's really -- My understanding is that's
20 really because there wasn't a settlement that included
21 Constellation. This was an agreement between PSNH, the
22 Consumer Advocate, and the Staff, to which
23 Constellation has not expressed an objection. Is that
24 a fair statement?

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[Witness panel: Baumann|Hall|Labrecque]

1 A. (Baumann) Yes, it is.

2 Q. Okay. The rest of my questions I'll just ask
3 generally, and whichever panelist wants to answer them,
4 that's fine. I think it was Mr. Labrecque who, in
5 describing the load forecast reporting requirement,
6 said "to the extent we receive credible information",
7 and those were your words as I got them down, you then
8 said "there would be some marginal improvement", again
9 your words, in your forecast. Have I got that right,
10 Mr. Labrecque?

11 A. (Labrecque) That's what I said.

12 Q. And, when you say "to the extent that we receive
13 credible information", I take it that reflects some at
14 least concern on your part that you don't know how
15 meaningful the information you're going to receive
16 would be?

17 A. (Labrecque) I was more referring to the fact that the
18 proposal as it stands kind of says a lot with only one
19 or two sentences. I would assume, if it were adopted,
20 there would be some set of guidance prepared to
21 instruct those, the retail suppliers who had to comply
22 with the proposal, that would outline the type of data,
23 the quality of the data they're providing. For
24 example, we would not want forecasted business growth,

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[Witness panel: Baumann|Hall|Labrecque]

1 that kind of thing. We would want, as of the day
2 you're preparing this report, what's the estimate of
3 the megawatt-hours and megawatts currently under
4 contract.

5 Q. So, in order to be useful to the Company, the final
6 regulation would need to be more specific than the
7 proposal that's been filed to date?

8 A. (Labrecque) I believe so, and I was assuming that would
9 take place.

10 Q. Okay. And, when you say "some marginal improvement",
11 can you quantify what you think the cost savings to
12 PSNH would be from having this information?

13 A. (Labrecque) No.

14 Q. Do you think that it would have any substantial impact
15 on the rate that customers pay?

16 A. (Labrecque) It might have a slight impact on the rate,
17 you know, maybe a million or two or three dollar
18 reduction. What would be more important would be its
19 impact on the actual power supply management throughout
20 the year and resulting potential for over or under
21 recoveries.

22 Q. Are you aware of any other jurisdiction that has a
23 requirement like this?

24 A. (Labrecque) No.

[Witness panel: Baumann|Hall|Labrecque]

1 Q. If the Commission issued an order out of this case with
2 such a requirement, how would competitive suppliers
3 even be aware of it? Would they have to know that this
4 order got issued?

5 A. (Labrecque) I assume so.

6 Q. I mean, if a competitive supplier started to think
7 about wanting to do business in New Hampshire and they
8 went on the Commission's website and they looked at the
9 Commission rules, they wouldn't find anything about
10 this, would they?

11 A. (Labrecque) Not currently.

12 Q. You said that you "already have base migration
13 experience." You know what the migration has been to
14 date, I assume is what you meant by that?

15 A. (Labrecque) Yes.

16 Q. And, you know which customers have migrated, correct?

17 A. (Labrecque) I don't specifically, but I see the
18 aggregate megawatt.

19 Q. But the Company has access to that information, doesn't
20 it?

21 A. (Labrecque) Yes.

22 Q. And, so, you know which customers have gone away and
23 stayed away for an extended time and which have gone
24 away for a short period and come right back?

[Witness panel: Baumann|Hall|Labrecque]

- 1 A. (Labrecque) The Company does.
- 2 Q. Yes. And, that information is actually fairly valuable
3 in predicting future behavior, isn't it?
- 4 A. (Labrecque) Not particularly.
- 5 Q. No?
- 6 A. (Labrecque) You don't know what's going to happen in
7 the future.
- 8 Q. But you do know whether we're talking about large
9 customers or small customers, don't you, when you look
10 at that data?
- 11 A. (Labrecque) Yes.
- 12 Q. And, customers who are likely to move relatively
13 quickly when there's a price change, and customers who
14 are not as likely to move?
- 15 A. (Labrecque) I'll agree in general that the more
16 analysis you perform on the customer experience to
17 date, you could glean some generalities from that
18 analysis.
- 19 Q. And, none of that customer-specific information is
20 available to the competitive retail suppliers, is it?
- 21 A. (Labrecque) Nor to me.
- 22 Q. Okay. And, I see Mr. Hall is conferring with you. Mr.
23 Hall, I don't have any problem with him conferring, but
24 if he has the answer and he just wants to provide it,

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[Witness panel: Baumann|Hall|Labrecque]

1 that's fine, too. I didn't mean to limit my questions
2 to Mr. Labrecque.

3 A. (Hall) Okay.

4 CHAIRMAN GETZ: Yes, I believe this
5 started out as a jump ball that Mr. --

6 BY MR. CAMERINO:

7 Q. Yes. I'm looking at Mr. Labrecque, and I don't want
8 you to feel like, if the answer is to Mr. Hall --

9 A. (Labrecque) I'll take a break.

10 Q. Thank you. It just may be smoother.

11 A. (Hall) Well, and the point about the information not
12 being available to competitive suppliers, and somehow
13 being available to Mr. Labrecque and the work he does
14 is not accurate. Mr. Labrecque does not have access to
15 that information.

16 Q. And, when I say "you", the Company has the information
17 about the specific customer behavior, doesn't it?

18 A. (Hall) Someone in Customer Service does.

19 Q. And, to the extent that you want to use it to forecast
20 potential future migration, that is available to PSNH,
21 is it not?

22 A. (Hall) Individual customer data?

23 Q. Yes.

24 A. (Hall) No, it's not available to PSNH for forecasting

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[Witness panel: Baumann|Hall|Labrecque]

1 future migration. Mr. Labrecque does not get that
2 information. He cannot get that information under the
3 Code of Conduct. Individual customer information is
4 not available to him.

5 Q. For forecasting load for distribution company purposes?

6 A. (Hall) Okay, you just said something different.

7 Q. Okay.

8 A. (Hall) Forecasting load for distribution company
9 purposes, forecasted load for distribution has nothing
10 to do with whether or not customers have migrated. I
11 want to make sure we're on the same track here.

12 Q. What I'm trying to understand is, Mr. Labrecque
13 described the process where the Company tries to
14 determine how much -- what its load is going to be in
15 the coming year and what power procurement needs it's
16 going to have.

17 A. (Hall) Its Energy Service load.

18 Q. Yes.

19 A. (Hall) Okay.

20 Q. And, what I'm just trying to understand is, he talked
21 about having baseline migration information, and that
22 was part of the analytical process. Have I got that
23 right?

24 A. (Hall) Yes, there is aggregate information available to

[Witness panel: Baumann|Hall|Labrecque]

- 1 Mr. Labrecque in doing his forecast. Just as that same
2 information is available to anyone who requests it.
3 That information is essentially public.
- 4 Q. That much I understood.
- 5 A. (Hall) Where I was getting hung up is the inference
6 that Mr. Labrecque has access to individual customer
7 information or specific information that's not also
8 available to competitive suppliers. That's not
9 accurate.
- 10 Q. All right. Let me ask it my way. And, maybe the
11 answer to this --
- 12 A. (Hall) Okay.
- 13 Q. -- is that the Company doesn't share that information
14 with the procurement people, and that could be. I
15 would have assumed, maybe completely incorrectly, that,
16 since the Company is responsible for projecting its load,
17 and the Company has data about customer behaviors,
18 individual customer behavior, that that would be used
19 as part of the process to forecast what its Energy
20 Service load and requirements will be?
- 21 A. (Hall) That's not the case.
- 22 Q. That's not the case. And, your statement is that it's
23 not the case because the Code of Conduct would preclude
24 that kind of sharing of information --

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[Witness panel: Baumann|Hall|Labrecque]

- 1 A. (Hall) Correct.
- 2 Q. -- internally within the Company?
- 3 A. (Hall) Right.
- 4 Q. Even though it was being used for distribution company
5 purposes, distribution company that provides Energy
6 Service?
- 7 A. (Hall) I was with you until the very end. Could you
8 say again, repeat that last statement.
- 9 Q. That the use of that information is not permitted by
10 the distribution company for purposes of serving its
11 Energy Service load?
- 12 A. (Hall) Individual customer information is not used,
13 correct.
- 14 Q. Okay. Thank you.
- 15 A. (Baumann) Mr. Camerino, if I could?
- 16 Q. Yes.
- 17 A. (Baumann) I buzzed in, my light didn't go on. I just
18 want to add that, because I have a lot of experience in
19 all three jurisdictions, Connecticut, Massachusetts and
20 New Hampshire, but individual customer data is of
21 limited value at times, because, first of all, when a
22 customer migrates, we don't know what type of contract
23 they have signed, how long they're going to migrate, so
24 that it really has a limited value. Customer

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[Witness panel: Baumann|Hall|Labrecque]

1 economics, we don't -- we just don't know the
2 parameters. A customer, an individual customer may
3 migrate and show a pattern, but, economically, they may
4 have to do something different in the future. They may
5 have an ability to cut a three-month deal, a 12-month
6 deal, a 24-month deal. That can vary. And, then,
7 certainly, we don't have any of that data because it's
8 third party data.

9 So, we found, as part of my
10 responsibilities, I have a load reporting area in my
11 group, and we do have to look at a lot of individual
12 customer data, simply because we match up sales with
13 load that's reported to the ISO. And, it would be
14 extremely limited by using that type of data.
15 Extremely time-consuming to go in and look at
16 individual customers, when you have hundreds of
17 thousands of customers on your sales system.

18 So, I just, you know, for what it's
19 worth, I don't believe there would be much value in
20 looking at that data. Only because today's trend may
21 be tomorrow's different trend.

22 Q. I believe, and again I'm not trying to limit my
23 question as to who can answer this, but I believe it
24 was Mr. Hall, you talked about "risk premiums". And,

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[Witness panel: Baumann|Hall|Labrecque]

- 1 what I want to understand is, when the Company
2 currently contracts for wholesale power supply, it's
3 supplying -- it's contracting with profit-making
4 entities, is it not?
- 5 A. (Labrecque) Yes.
- 6 Q. The supplier makes a profit?
- 7 A. (Labrecque) Oh, I don't -- I can't speculate whether
8 they're making a profit on the specific sales to us.
- 9 Q. They would like to make a profit, wouldn't they?
- 10 A. (Labrecque) They sure would. Sure. Yes.
- 11 Q. Sometimes they make money?
- 12 A. (Labrecque) Uh-huh.
- 13 Q. Sometimes they lose money?
- 14 A. (Labrecque) Correct. Yes, we're procuring power at
15 current prevailing market prices.
- 16 Q. And, all of your market purchases come from for-profit
17 entities, don't they?
- 18 A. (Labrecque) Yes.
- 19 Q. Unless there's a municipal that has excess power that
20 has got to shed into the market. Maybe they're not --
21 They may not be trying to make a profit, but they will
22 be charging market prices, right?
- 23 A. (Labrecque) Correct.
- 24 Q. So, that isn't any different than a single supplier who

[Witness panel: Baumann|Hall|Labrecque]

1 supplies all of your market purchases, is it?

2 A. (Labrecque) No.

3 A. (Hall) There's a big difference.

4 A. (Labrecque) Yes. It's completely different.

5 Q. Okay. How is it different?

6 A. (Labrecque) When you're buying a standard bilateral
7 contract for 50 megawatts of on-peak energy, you're
8 paying a fixed price. You're, either through a broker
9 or through direct negotiation, you are reaching an
10 agreement with a supplier, and you're the purchaser.
11 The kind of -- are we talking about profit margin here?
12 The kind of profit margin in -- I think you were trying
13 to compare that to the RFP approach. That
14 solicitation, the supplier is going to assemble a set
15 of hedges, some of which might be the same types of
16 standardized bilateral purchase contracts I was just
17 speaking of, and perhaps some other types of hedging
18 instruments. And, then, they're going to, on top of
19 the cost basis for all those products they have
20 procured, that's just their cost basis, and they need
21 to make a profit, so they're going to add on top of
22 that whatever level of profitability is their -- is
23 their company desired margin on such a contract.

24 A. (Hall) Couple that with the fact that the proposal that

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[Witness panel: Baumann|Hall|Labrecque]

1 Constellation has made is for load-following service
2 for that portion of load not served by PSNH's
3 generation. There's a lot more variability in that
4 type of product in the volume from hour to hour than is
5 associated with the purchase of a block of power in
6 advance.

7 Q. Well, and --

8 A. (Hall) And, therefore, because of the variability,
9 there's more risk involved, so the margin has to be
10 larger.

11 Q. And, I think you said "there's no way to compare the
12 two processes", the PSNH way of doing things and the
13 Constellation proposal?

14 A. (Hall) Once one is gone, it's impossible to recreate
15 what would happen with the other.

16 Q. And, you can't create, you, PSNH, can't create such a
17 comparison today, can you? You can only speak in
18 conceptual terms?

19 A. (Hall) Nor can Constellation. And, in fact, one of the
20 things we asked Constellation in discovery, they
21 maintained that their proposal was a "proven means" of
22 reducing costs to customers. And, I asked a discovery
23 question saying "show me the proof", and the answer was
24 that you objected because I requested any and all

[Witness panel: Baumann|Hall|Labrecque]

1 information documenting the proof, and you said "it was
2 too burdensome". And, interestingly enough, you didn't
3 provide any information, let alone all information.

4 Q. Mr. Hall, the answer went further than that. Didn't it
5 say that the information would be provided, and wasn't
6 there also, let me just finish the question, was there
7 also a discussion --

8 A. (Hall) Well, I've got it right here.

9 Q. Excuse me. A discussion about giving Constellation
10 additional time to respond, because the schedule only
11 allows one week to answer 43 data requests?

12 A. (Hall) And, I guess I'm wondering when the information
13 might be provided, if you want the Commission to render
14 a decision. And, if you provide the information on the
15 day before the Commission issues an order, then how can
16 PSNH analyze and rebut that information?

17 Q. Which is why a separate proceeding might be helpful,
18 wouldn't that be true?

19 A. (Hall) If the Commission so desires to hold a separate
20 proceeding, they'll do so. My recommendation earlier
21 was that they not, because there's no reason for it.

22 Q. You indicated that PSNH keeps an "uncovered piece"?

23 A. (Hall) I'm sorry?

24 Q. You indicated that PSNH keeps a piece of its

[Witness panel: Baumann|Hall|Labrecque]

- 1 requirements "uncovered". I don't know which witness
2 --
- 3 A. (Labrecque) Yes, I think I said something to that
4 effect.
- 5 A. (Hall) Yes.
- 6 Q. And, I assume by that what you mean is you either delay
7 entering into bilateral contracts or to some extent you
8 fill your requirements from the spot market?
- 9 A. (Labrecque) Yes.
- 10 Q. And, when -- that uncovered portion, if you will, that
11 is presumably to meet the peak requirements of the
12 Company?
- 13 A. (Labrecque) What do you mean by "peak"?
- 14 Q. Meaning that those additional strips of power, I'm not
15 sure how you would describe them, tend to be needed
16 during periods of peak demand on the system?
- 17 A. (Labrecque) Oh, not necessarily. It's all hours. We
18 may have uncovered positions on the weekends in April
19 and during the weekdays in July. You know, it's not as
20 simple as you state.
- 21 Q. Isn't it fair to say also, though, that during off-peak
22 periods you tend to meet your load with your own
23 generation?
- 24 A. (Labrecque) We meet more of it.

[Witness panel: Baumann|Hall|Labrecque]

- 1 Q. So that as a general statement?
- 2 A. (Labrecque) As a general statement what?
- 3 Q. In other words, your market purchases are more likely
- 4 to be during peak periods, rather than off-peak
- 5 periods, understanding that they could be during both?
- 6 A. (Labrecque) Absolutely.
- 7 Q. Does PSNH ever sell power in the wholesale market?
- 8 A. (Labrecque) When we have surplus, we sell power.
- 9 Q. So, you're not just a purchaser, you're also a seller
- 10 in the wholesale market?
- 11 A. (Labrecque) When we have surplus resources that results
- 12 in -- the net effect of that is a sale to the ISO-New
- 13 England hourly market.
- 14 Q. Okay.
- 15 A. (Labrecque) Yes. We're not purchasing power to resell
- 16 it. I mean, I just --
- 17 Q. No, that answers that.
- 18 A. (Labrecque) -- labeling us as a "seller", I don't know
- 19 if you're trying to imply something there?
- 20 Q. No, you are sometimes on the sale side, as you said,
- 21 and you want to --
- 22 A. (Labrecque) Well, on the sale side, you're talking
- 23 about of a negotiation, of a brokered contract? That's
- 24 what I'm trying to make sure you're not inferring from

[Witness panel: Baumann|Hall|Labrecque]

- 1 my response.
- 2 Q. Are you -- You tell me, you described to me --
- 3 A. (Labrecque) I described to you the instances in which
- 4 we have a surplus, that surplus will be sold into the
- 5 ISO New England hourly spot market.
- 6 Q. So, suppose, let me give you an example, suppose
- 7 there's more migration than you had forecast, and you
- 8 find yourselves with a substantial additional block of
- 9 power that you have obligated yourself to buy and you
- 10 don't need.
- 11 A. (Labrecque) Yes.
- 12 Q. Aren't you going to try to maximize what you can get
- 13 for that on the wholesale market?
- 14 A. (Labrecque) Absolutely. And, nothing prohibits us from
- 15 selling it contractually. It does not have to be sold
- 16 into the spot market.
- 17 Q. Okay. Just a couple of questions about the power
- 18 purchase agreements that are mentioned in the updated
- 19 technical statement. Can you tell me what the term of
- 20 those power purchase agreements is?
- 21 A. (Labrecque) Yes, I think we filed -- we filed on the
- 22 same date testimony describing those two agreements,
- 23 and they're three year agreements, generally from '08
- 24 to 2010.

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[Witness panel: Baumann|Hall|Labrecque]

1 Q. And, those are going to be reviewed by the Commission
2 in a separate proceeding from this one?

3 A. (Hall) Yes.

4 Q. And, so, if the Commission -- the Company is not
5 seeking a determination by the Commission in this
6 proceeding that those contracts are prudent?

7 A. (Hall) Correct.

8 Q. Did the Company conduct an RFP that resulted in
9 entering into those contracts?

10 A. (Labrecque) No. That was a direct negotiation.

11 MR. CAMERINO: Thank you. That's all I
12 have.

13 CHAIRMAN GETZ: Ms. Hatfield.

14 MS. HATFIELD: Thank you, Mr. Chairman.

15 BY MS. HATFIELD:

16 Q. Mr. Baumann, when you were describing the change in the
17 update that you filed on November 21st, you referred to
18 a net obligation of "\$12.2 million" that you said would
19 be -- the Company was now proposing to move from Energy
20 Service to the stranded cost filing. Do you remember
21 that?

22 A. (Baumann) Yes.

23 Q. And, I believe in your technical statement you describe
24 the \$12.2 million in credits, and you state that

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[Witness panel: Baumann|Hall|Labrecque]

1 11.7 million of those contracts will be refunded
2 through the stranded cost rate, but that there's a
3 remaining amount that will be credited to the current
4 energy efficiency programs, is that correct?

5 A. (Baumann) Yes.

6 Q. So, the figure is actually 11.7 million that's being
7 credited?

8 A. (Baumann) It's the 11.7 million will be credited to
9 SCRC. I oversimplified it, 12.2 million is taken out
10 of the ES. But you are correct, the 11.7 is for SCRC,
11 and the 540,000 will go to the Home Energy Assistant
12 Program.

13 Q. There was testimony previously in response to Mr.
14 Camerino's questions regarding the Code of Conduct that
15 prevents PSNH from using customer-specific information
16 when you're developing your forecasts and your
17 purchases for additional power that's needed. And, I'm
18 wondering, the proposed reporting, that's one of the
19 issues in this case, would PSNH be able to use the
20 report that we're contemplating or do you foresee any
21 problems related to the existing Code of Conduct with
22 respect to the report?

23 A. (Labrecque) Yes, I would say there that, again, it was
24 my belief that the proposal would be, if enacted,

[Witness panel: Baumann|Hall|Labrecque]

1 expanded into some broader set of guidelines. One of
2 those guidelines I would recommend, although it's not
3 specifically stated in the current proposal, would be
4 that it simultaneously be released to the public, to
5 any interested party or posted on some form of
6 Commission website, so that it would not be
7 specifically provided only to PSNH. Even if this was
8 an aggregated set of data, I would have no problem if
9 it were posted publicly, and that would alleviate any
10 shadow of a doubt on Code of Conduct issues.

11 Q. And, I believe that Mr. Camerino referred to that
12 reporting requirement as a "regulation" or perhaps a
13 "rule", and he asked a question about how competitive
14 suppliers would know that they need to comply with
15 that. And, I'm wondering, Mr. Hall, do you think that
16 that should be, if the Commission approves that, that
17 requirement, do you think it should be an amendment to
18 the rules that are provided competitive suppliers, so
19 that people would be on notice that they have to supply
20 that?

21 A. (Hall) Yes. Absolutely.

22 MS. HATFIELD: Thank you. No further
23 questions.

24 CHAIRMAN GETZ: Ms. Amidon.

[Witness panel: Baumann|Hall|Labrecque]

1 MS. AMIDON: Thank you. Good morning.

2 BY MS. AMIDON:

3 Q. In the technical statement that was filed on
4 November 21st, the Company responded to some of the
5 comments of Staff in Staff's testimony, is that
6 correct?

7 A. (Baumann) Yes.

8 Q. For example, Staff recommended against including the
9 expense for lobbying regarding the mercury legislation,
10 removing that, and PSNH agreed.

11 MS. AMIDON: So, having said that, not
12 anticipating that I'll be calling Mr. Mullen, and noting
13 that Mr. Cannata is not here, I'd like to mark for
14 identification the testimony that was filed on November
15 9th by Mr. Mullen and Mr. Cannata, I guess that would be
16 Exhibit 5?

17 CHAIRMAN GETZ: Is there any objection
18 to marking the testimony?

19 (No verbal response)

20 CHAIRMAN GETZ: It will be marked for
21 identification as Exhibit Number 5.

22 MR. CAMERINO: Is that just one of the
23 testimonies, number 5, or is that both?

24 MS. AMIDON: They were filed together

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[Witness panel: Baumann|Hall|Labrecque]

1 with a single cover letter.

2 CHAIRMAN GETZ: Yes, I understood it to
3 be both the Mullen and the Cannata testimony.

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

7 BY MS. AMIDON:

8 Q. And, noting that you did respond to some of
9 Mr. Mullen's concerns in that filing. I would like to
10 direct the question to whoever can respond to the
11 issues that were raised by Mr. Cannata. As you know,
12 Staff engaged Michael Cannata of the Liberty Group to
13 make -- to review the issues raised in the initial
14 filing. And, he made some recommendations regarding
15 power purchases for forced outages, modeling of short
16 planned reliability outages, and some weather-based
17 forecasts. So, could you please tell me what PSNH has
18 done and what agreements you've reached with Staff
19 regarding these recommendations?

20 A. (Hall) Sure. We met with Mr. Cannata and Mr. Mullen to
21 get a better understanding of what it was that Mr.
22 Cannata was recommending and what he was seeking. And,
23 essentially, what we agreed is that we will respond to
24 the questions he had by submitting a report to the

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[Witness panel: Baumann|Hall|Labrecque]

1 Commission that really goes into a lot more detail on
2 the thought process that we go through when we make
3 these types of decisions. And, we had initially felt
4 that we had responded to those questions in our
5 testimony. But, as we -- during our discussion, it
6 became apparent to us that we didn't go far enough in
7 our explanation in our prefiled testimony.

8 So, what we agreed to do is to begin
9 preparing a report on the issues cited by Mr. Cannata,
10 and to provide a lot more detail, put a lot more meat
11 on the bones as to the thought process behind the
12 decision making, and what kind of analysis we go
13 through and that sort of thing.

14 Q. And, it's fair to say that Mr. Cannata and Mr. Mullen
15 agreed with that resolution of Mr. Cannata's issues?

16 A. (Hall) I believe they did, yes.

17 Q. Okay. I have some questions now regarding
18 Constellation's proposal. And, I know you've read the
19 testimony of Mr. Allegretti, and that you don't agree
20 with it. But let's assume that the Commission doesn't
21 except Constellation's proposal in this docket, and
22 instead opens up a new docket to consider the details
23 involved in implementing an RFP process for PSNH.
24 Based on your current procurement practices, when would

[Witness panel: Baumann|Hall|Labrecque]

1 you need a Commission decision to determine whether you
2 need to implement such a process for purchases for
3 2009?

4 A. (Hall) We would probably need a decision by the April
5 time frame. Because starting around April, May,
6 thereabouts, there's no specific date, but right around
7 there, spring of the year is when we begin putting
8 together our strategy and begin making purchases of
9 blocks of power for our shortfall for the following
10 year. So, if we don't have a decision by the April or
11 May time frame, we're going to have to go forward and
12 begin that process, begin the purchasing process.
13 Otherwise, if we were to wait, and there wasn't a
14 decision issued until much later in the year, and it
15 turned out that it rejected the Constellation proposal,
16 we then have to scramble to try to find -- to try to
17 make purchases in a relatively short time frame. And,
18 being doing that, we wouldn't be able to take advantage
19 as much of market changes that occur over time. So, if
20 we were to implement -- the Commission decides to
21 implement the Constellation proposal, we'd strongly
22 recommend that they issue a decision certainly by
23 April.

24 Beyond that, even after they issue a

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[Witness panel: Baumann|Hall|Labrecque]

1 decision, I think there's a lot of details that have to
2 be worked out, that would have to be worked out. It's
3 somewhat of a complex process.

4 Q. Have you given any thought to those details or have you
5 had any time to?

6 A. (Hall) I've given some thought to them. We certainly
7 would have to come up with an appropriate RFP. I would
8 imagine that Staff and OCA and suppliers no doubt would
9 be involved in that process. But we basically will
10 have to set up the process as to how we go about doing
11 it.

12 MS. AMIDON: Okay. That's all the
13 questions I have. Oh, excuse me. Pardon me. I forgot,
14 Mr. Mullen has more technical questions related to some of
15 the figures in the November 21st filing, if you would
16 please allow him to proceed with his line of questions.
17 Thank you.

18 MR. MULLEN: Good morning.

19 WITNESS HALL: Good morning.

20 BY MR. MULLEN:

21 Q. Just to follow up a little bit on the issues raised in
22 Mr. Cannata's testimony. One of those had to do with
23 modeling short planned reliability outages. And, I
24 believe that you've agreed with that recommendation and

[Witness panel: Baumann|Hall|Labrecque]

1 you've incorporated such modeling in the updated
2 numbers, is that correct?

3 A. (Labrecque) That's correct.

4 Q. As for the other two issues, one having to do with
5 modeling forced outages and the other one having to do
6 with looking at 30 year versus 10 year weather
7 forecasts, Mr. Cannata didn't specifically recommend
8 any changes, is that correct?

9 A. (Labrecque) That's correct.

10 Q. More I think his questions went to, "well, looking at
11 the information in his testimony, would such
12 information cause you to possibly change any of your
13 purchase decisions?" Do you have a short answer to
14 that question? You know, do you think there's changes
15 needed?

16 A. (Labrecque) Yes, like Steve said, I thought we had laid
17 out pretty clearly our position in the prefiled
18 testimony. We will expand on that, but those positions
19 were. As far as Mr. Cannata's premise that there was
20 some predictability that you might be able to predict
21 in forced outage occurrences throughout the year on a
22 monthly basis, instead of our current practice of
23 looking at, you know, history and assigning an annual
24 average forced outage rate to the base load units.

[Witness panel: Baumann|Hall|Labrecque]

1 Perhaps, you could do that on a monthly basis. And,
2 those monthly fluctuations might have an impact on the
3 amount of bilateral contracting you do in advance.
4 And, the short answer is, is that our current process
5 we assume essentially 100 percent availability, not in
6 the modeling, but in our -- in our assessment of the
7 quantity of bilateral purchases that we need to seek,
8 we assume the units are running at essentially
9 100 percent availability between planned scheduled
10 outages. We also have a disagreement in general as to
11 whether there is predictability in the monthly rates.
12 And, we'll expand on that in the document that we're
13 preparing.

14 The other issue related to the use of
15 our current practice of using 30 year -- 30 year
16 weather data as the normal weather input to our base
17 sales forecast, as opposed to, say, a 10 year. And,
18 Mr. Cannata's premise was that a 10 year versus a 30
19 would show some weaker heating degree days in the
20 winter, some stronger cooling degree days in the
21 summer, and might influence our supplemental purchase
22 procurement. And, our simple answer to that was, we're
23 still convinced that using the base sales forecast, the
24 30 year forecast, is still the appropriate benchmark to

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[Witness panel: Baumann|Hall|Labrecque]

1 do our supplemental power procurement planning that we
2 do in advance, say, in the 6 to 12 months prior to
3 delivery. And, that weather anomalies will be
4 addressed using more shorter term efforts.

5 Q. Thank you for the short answer.

6 A. (Labrecque) Sorry about that. The long one will be
7 coming later.

8 Q. Now, going to just some of the details in Exhibit 2.
9 If you could turn to Attachment RAB-2, Page 5. Are you
10 there? If you look on Line 18, there's a line that
11 says "2008 SO2 Auction Proceeds". Could you explain
12 how this is being treated now, compared to how it was
13 treated in the original filing?

14 A. (Hall) One moment.

15 Q. And, as part of that, how it relates to what we've been
16 talking about as one of the net obligations that's been
17 discussed today? Not to interrupt your thought
18 process, how about if I ask it like this: Prior to
19 2008, how are the SO2 allowance auction proceeds
20 treated?

21 A. (Baumann) I'd rather not speculate. I do have an
22 individual that probably can answer that question.

23 Q. Okay. Well, let me ask this.

24 A. (Baumann) Or I'll take it subject to check.

[Witness panel: Baumann|Hall|Labrecque]

1 A. (Labrecque) The answer is "no, we don't know how to."

2 (Laughter.)

3 BY THE WITNESS:

4 A. (Labrecque) Can we move on?

5 BY MR. MULLEN:

6 Q. Is my understanding correct that, prior to 2008, the
7 annual SO2 allowance auction proceeds were included in
8 what has been -- they were part of one of the net
9 obligations that we've talked about today?

10 A. (Hall) Yes.

11 A. (Baumann) Right. That was going to be our guess,
12 actually.

13 Q. So, going forward from 2008 on, how will those auction
14 allowance proceeds be treated?

15 A. (Baumann) We are flowing them through currently in the
16 Energy Service Charge on a forecasted basis, because
17 the original -- the original filing did not have them
18 in, and, in the updated filing, there was a credit of I
19 think \$300,000.

20 Q. Thank you.

21 A. (Baumann) Thank you.

22 Q. Now, if we move to the Technical Statement of Richard
23 Labrecque and Robert Baumann, Page 1 of 3. Item Number
24 1 talks about "A \$7.8 million increase in coal

[Witness panel: Baumann|Hall|Labrecque]

- 1 expenses, primarily related to forecasted
2 transportation fuel adjustment surcharges." Am I
3 correct to assume that those fuel adjustment surcharges
4 relate to your rail contracts?
- 5 A. (Labrecque) Yes.
- 6 Q. And, so, basically, as the price of fuel goes up,
7 though, that gets passed right on by the rail
8 companies?
- 9 A. (Labrecque) There is some mechanism, I don't know the
10 exact details, but, yes.
- 11 Q. Okay. Items 2 and 4 on that page relate primarily to
12 the two contracts with the Pinetree plants that we
13 discussed earlier. Essentially, what's happening is
14 the costs are shifting from one line to another line in
15 your schedules. And, there might be some difference in
16 the amounts now, because the original amounts were done
17 based at a forecasted market price, and now the new
18 amounts will be at a contracted price, is that correct?
- 19 A. (Labrecque) Yep.
- 20 Q. Okay.
- 21 A. (Labrecque) Yes.
- 22 Q. Turning to Page 3 of 3 of that technical statement, on
23 Line 6 you have Footnote C. And, that talks about
24 adjustments to the "forecasted per unit cost of

[Witness panel: Baumann|Hall|Labrecque]

1 Newington start-up fuel", which is Number 2 oil, and
2 that was adjusted. And, I believe, on a prior page,
3 that's shown as an increase in cost. Is the start-up
4 fuel purchased ahead of time or only as needed?

5 A. (Labrecque) I don't know the answer to that.

6 A. (Baumann) Well, we certainly -- we purchase Number 2
7 oil and have a quantity on site. So, yes, there is an
8 average inventory value. And, as we purchase more and
9 replenish inventories, we certainly change the average
10 inventory value, and, in a period of rising oil prices,
11 that has been going up.

12 Q. Okay. And, one more question. On that same page, Line
13 53, Note G, and it says "This decrease relates to
14 reduced ISO-New England forward reserve market changes
15 [charges?] and reduced Class III New Hampshire RPS
16 compliance costs." Could you explain what has reduced
17 the Class III New Hampshire RPS repliance costs --
18 compliance costs, excuse me.

19 A. (Labrecque) In the original filing, we expensed the
20 three and a half percent Class III RPS requirement at
21 the \$28 alternate compliance payment. In this -- Since
22 that filing, we've executed this -- the Pinetree PPAs
23 that involve the procurement of a quantity of Class III
24 RECs at a price lower than the \$28 alternative

[Witness panel: Baumann|Hall|Labrecque]

1 compliance payment. So, we've reflected that savings
2 in that line item.

3 MR. MULLEN: Thank you. I have no
4 further questions.

5 CHAIRMAN GETZ: Questions?

6 CMSR. BELOW: Yes.

7 BY CMSR. BELOW:

8 Q. Mr. Labrecque, if you turn to part -- the last page of
9 Exhibit 5, which is the back page of Mr. Cannata's
10 testimony, it's his Attachment MDC-2, but it actually
11 appears to be a attachment that you used in another
12 filing. Have you found that?

13 A. (Labrecque) Yes.

14 Q. Can you describe that? Do you recognize it?

15 A. (Labrecque) Yes. This is, I believe, an exhibit in the
16 reconciliation filing for 2006. This summarizes, by
17 month, by peak and off-peak, PSNH's Energy
18 Service requirement, and, on a percentage basis, the
19 supply resource -- resources that met the requirement.

20 Q. And, the on-peak is for what hours?

21 A. (Labrecque) Weekdays, hours 8 to 23, which is really
22 7:00 a.m. through 11:00 p.m., 16 hours a day, excluding
23 NERC holidays.

24 Q. And, this concerns the energy requirement that you

[Witness panel: Baumann|Hall|Labrecque]

1 supply through Default Service, and not load that's
2 supplied through competitive suppliers, is that
3 correct?

4 A. (Labrecque) Correct.

5 Q. And, if we look at the total for the year on-peak and
6 off-peak, 67 and 80 percent, if we weighted those by
7 the energy requirements, it's safe to say that, for
8 calendar year 2006, your own resources supplied
9 somewhere between 67 percent and 80 percent of your
10 load?

11 A. (Labrecque) Yes.

12 Q. Okay. And, the "Bilateral Purchase" column, which is
13 the third from the right, that represents the blocks
14 and strips that you were discussing earlier, the kinds
15 that you procure typically in the prior calendar year
16 for periods in the next calendar year, is that correct?

17 A. (Labrecque) Primarily, that -- that also will include
18 any that we made during the year.

19 Q. Right. And, could you characterize the type of
20 entities that are the other party in those contracts?

21 A. (Labrecque) Yes. They're all -- We have creditworthy,
22 I mean, we have, you know, credit provisions that, from
23 our Treasury Department, that we can only do business
24 with certain entities. But, you know, the list isn't

[Witness panel: Baumann|Hall|Labrecque]

1 prohibitive. It's eight or ten or twelve, you know,
2 counterparties. But there primarily well-known,
3 recognizable wholesale energy suppliers in New England.

4 Q. And, some of them own generation or some don't? Are
5 some brokers or sort of intermediaries perhaps between
6 themselves and an affiliate or other parties that own
7 generation?

8 A. (Labrecque) I think -- I think most of them probably
9 own generation somewhere within their corporate
10 structure, but not necessarily all of them.

11 Q. So, it might be, the entity you contract might own
12 generation directly or an affiliate might own the
13 generation, or maybe sometimes not?

14 A. (Labrecque) Correct.

15 Q. Okay. And, do you know if, when you purchase these
16 blocks and strips, those tend to be sort of
17 intermediate or peak, inasmuch as you tend to provide
18 your base load with your own resources, as a general
19 characterization?

20 A. (Labrecque) Yes. That's a general characterization.

21 Q. Okay. And, the load-following products, sort of the
22 margin between what you have on line and what you've
23 contracted for, does that tend to be the spot
24 purchases?

[Witness panel: Baumann|Hall|Labrecque]

- 1 A. (Labrecque) In a -- Yes. In a forecasted sense, that's
2 correct. You know, we have a load-following model, a
3 forecast that we use as the basis of this filing. And,
4 as well, throughout the year, on a day-to-day basis, as
5 you stated, we have our dispatched resources, IPPs and
6 whatnot, plus these strip purchases, and the residual
7 is served through the spot market.
- 8 Q. And, in a few of these months, I think four months for
9 the on-peak period, the spot purchases are shown as
10 "zero percent", and one month during the off-peak.
11 Does that "zero percent", does that represent actual
12 zero or between zero and 0.5 percent, as sort of a
13 round whole number?
- 14 A. (Labrecque) That may be the case. But this -- this
15 graphic is the resources used to serve load. So, what
16 I mean to say by that is, in the hours in which we have
17 surplus, the surplus, what's serving that surplus isn't
18 depicted here. So, this is basically the resources
19 that served the load line. And, in a month in which
20 you see zero spot market purchases, we were fully
21 covered in all hours with either resources or resources
22 plus our purchases.
- 23 Q. So, are some of your bilateral purchases to some extent
24 load-following? I mean, can they vary based on your

[Witness panel: Baumann|Hall|Labrecque]

1 load to some extent?

2 A. (Labrecque) We have discussed those types of products
3 with suppliers from time to time. We have not executed
4 any deals like that.

5 Q. So, in those periods where you've got zero percent spot
6 purchases, you've maybe dialed back your own generation
7 a little bit to actually follow the load or --

8 A. (Labrecque) Well, what's happening there is, you know,
9 the baseload resources that are always economic, and
10 the IPPs which are must take, you know, dispatched,
11 that's the baseload set of power. We have bilateral
12 contracts, you know, essentially on top of that, that
13 stack. And, what this is indicating that, in those
14 months, that was sufficient in every hour to serve the
15 load.

16 Q. So, there may be periods of time in some hours which
17 you're actually selling, because you've got a surplus
18 from your generation and your required purchases from
19 the IPPs and such?

20 A. (Labrecque) Correct.

21 Q. And, do you -- have you done any analysis that looked
22 at your bilateral purchases, compared to the spot
23 market price?

24 A. (Labrecque) Yes, I believe there's an exhibit each year

[Witness panel: Baumann|Hall|Labrecque]

1 in the reconciliation filing that provides the average
2 price of the bilaterals by month and the average price
3 of the spot. Of course, in a month when there's no
4 spot or very minuscule portions of spot market
5 purchases, it's not a real good comparison. But we do
6 supply that every year.

7 Q. Okay. So, is it safe to say that in some hours the
8 bilateral price might be greater than the spot price,
9 but in other hours it might be less than the spot
10 price?

11 A. (Labrecque) That's true.

12 Q. Okay. Will this same type of exhibit be provided in
13 the next SCRC reconciliation filing?

14 A. (Labrecque) Yes.

15 Q. So, you track this on a monthly basis? I mean, I guess
16 what I'm going and jumping at is could you provide a
17 year-to-date for 2007 of a comparable analysis through
18 the months that you have completed data on as a data
19 request?

20 A. (Labrecque) Yes.

21 CMSR. BELOW: Okay.

22 CHAIRMAN GETZ: We will reserve

23 Exhibit 6 for that record request.

24 (Exhibit 6 reserved)

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[Witness panel: Baumann|Hall|Labrecque]

1 CMSR. BELOW: That's all.

2 CHAIRMAN GETZ: Okay.

3 BY CHAIRMAN GETZ:

4 Q. Mr. Labrecque, I wanted to follow up on the exchange
5 you had with Mr. Camerino about sales. And, I believe
6 you, of course, indicated that there's -- PSNH makes
7 sales of surplus from time to time, but I think you
8 were making the distinction that the practice has been
9 to sell into the ISO market at the spot price level,
10 but the Company could enter into bilateral contracts,
11 but that's not been the practice. Is that an accurate
12 characterization?

13 A. (Labrecque) Yes. And, there's just two distinctions
14 there. I just wanted to make it clear that we don't
15 buy power for the purposes of reselling it. We're not
16 trading is one thing I want to make clear. And, then,
17 the other is that, typically, we don't desire or plan
18 to have a significant portion of surplus, you know,
19 that day after day we're in a significant surplus
20 situation. That's not our desire. And, by that I
21 mean, when we do have surplus, it's usually a small
22 quantity, such that --

23 Q. Well, that's what I wanted to get to.

24 A. (Labrecque) Yes.

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[Witness panel: Baumann|Hall|Labrecque]

1 Q. What's the magnitude? Is there an attachment in this
2 proceeding that shows the -- like the magnitude of the
3 surplus sales?

4 A. (Labrecque) On a forecasted basis?

5 Q. Well, either forecasted or historic. I was trying --

6 A. (Labrecque) There, I believe in the '06, again, the '06
7 reconciliation filing, we provided that. I don't know
8 if it was in the original testimony or a data request.
9 In the current '08 filing, there is a forecast of the
10 surplus, as we currently see it. That's on RAB-2, Page
11 3.

12 Q. Now you're in Exhibit 2, the revised, or the original?

13 A. (Labrecque) If you look at the revised, the
14 November 21st ES filing. RAB-2, Page 3, Line 30 and
15 31.

16 Q. Okay.

17 A. (Labrecque) What that shows there is, essentially, when
18 you compare Lines 35, the gigawatt hours of energy
19 requirement, to all of our resources and purchases to
20 date, a very small level of surplus, you know,
21 currently. I mean, and this is -- probably represents
22 some off-peak hours in which, you know, we've got a
23 little extra. Certainly, our intent is not to have a
24 lot of surplus.

[Witness panel: Baumann|Hall|Labrecque]

1 CHAIRMAN GETZ: All right. Thank you.

2 That's all I have.

3 CMSR. BELOW: I actually have another
4 question, if I could.

5 BY CMSR. BELOW:

6 Q. On your spot purchases, are those typically day-ahead
7 or real-time or a combination?

8 A. (Labrecque) Mostly day-ahead. We do most of our
9 business in the day-ahead.

10 Q. With the reconciliation based on actual?

11 A. (Labrecque) Yes.

12 CMSR. BELOW: Okay. Thank you.

13 Redirect, Mr. Eaton?

14 MR. EATON: No thank you.

15 CHAIRMAN GETZ: Is there anything
16 further for the panel?

17 (No verbal response)

18 CHAIRMAN GETZ: Hearing nothing, then
19 you're excused. Thank you, gentlemen. Why don't we take
20 a brief recess, ten minutes, and then we'll resume with
21 Mr. Allegretti's testimony. I'm assuming we're a half
22 hour/hour range to complete?

23 MR. EATON: That depends on Mr.
24 Allegretti.

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[Witness: Allegretti]

1 CHAIRMAN GETZ: Okay. Let's take a
2 brief recess. Thank you.

3 (Recess taken at 11:47 a.m. and the
4 hearing resumed at 12:05 p.m.)

5 CHAIRMAN GETZ: Okay. We're back on the
6 record in 07-096, and turning to Mr. Allegretti's
7 testimony. Mr. Camerino.

8 MR. CAMERINO: Thank you, Mr. Chairman.
9 (Whereupon Daniel W. Allegretti was duly
10 sworn and cautioned by the Court
11 Reporter.)

12 MR. CAMERINO: Mr. Chairman, if we could
13 mark as "Exhibit 7" for identification Mr. Allegretti's
14 prefiled testimony.

15 CHAIRMAN GETZ: So marked.
16 (The document, as described, was
17 herewith marked as Exhibit 7 for
18 identification.)

19 MR. CAMERINO: And, do you need copies
20 at the Bench?

21 CHAIRMAN GETZ: We're set.

22 DANIEL W. ALLEGRETTI, SWORN

23 DIRECT EXAMINATION

24 BY MR. CAMERINO:

{DE 07-096} (11-28-07)

[Witness: Allegretti]

- 1 Q. Mr. Allegretti, would you state your name and business
2 address for the record please.
- 3 A. Yes. My name is Daniel W. Allegretti. And, my
4 business address is 111 Marketplace, Baltimore,
5 Maryland. I am a Vice President and Director of
6 Wholesale Energy Policy with Constellation Energy
7 Commodities Group.
- 8 Q. And, can you just briefly described what your
9 responsibilities are on behalf of Constellation?
- 10 A. Certainly. I'm responsible for our Energy Policy
11 Group, which is a combination of managing relations
12 with RTOs, ISOs, state legislatures, state public
13 utility commissions, the Federal Energy Regulatory
14 Commission. And, my area of responsibility includes
15 New England, New York, PJM, and the southeastern United
16 States.
- 17 Q. And, do you have in front of you a copy of your
18 prefiled direct testimony?
- 19 A. Yes, I do.
- 20 Q. And, that's a 24-page document, with a cover sheet on
21 it?
- 22 A. Yes, it is.
- 23 Q. Okay. And, is that testimony true and correct to the
24 best of your knowledge and belief?

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[Witness: Allegretti]

- 1 A. Yes.
- 2 Q. And, it was prepared by you or under your direction?
- 3 A. Yes.
- 4 Q. And, your professional and educational background are
5 all set forth in that testimony?
- 6 A. Yes, they are.
- 7 Q. Would you begin by just summarizing for the Commission
8 what Constellation's proposal is with regard to PSNH
9 issuing an RFP?
- 10 A. Sure. We have observed that approximately 60 percent
11 of the megawatt-hours of electricity consumed by PSNH's
12 standard offer customers are provided by the output
13 from the PSNH generating plants, and that the balance,
14 the supplemental requirement, approximately 40 percent,
15 is procured, as Mr. Hall described this morning,
16 through a combination of purchases, in the forward
17 markets, in the spot markets, as well as other types of
18 hedging transactions, such as the option that
19 Mr. Labrecque described. Our proposal is for Public
20 Service Company of New Hampshire to procure that
21 supplemental requirement through a competitive request
22 for proposal process, under which they would acquire a
23 contract for a full requirement load-following service,
24 that would be at a fixed price, for a fixed term, for

[Witness: Allegretti]

1 that supplement requirement for their standard offer
2 customers.

3 Q. And, can you just summarize for the Commission the
4 principal reasons why Constellation thinks that that
5 RFP process would be beneficial for customers?

6 A. Yes. The supplemental requirement has to be purchased,
7 and, because it is an uncertain quantity, it requires
8 the management of a portfolio. Again, as Mr. Hall
9 described, Public Service currently does this
10 themselves, by transacting in the forward markets, the
11 spot markets, and other hedging markets. We believe
12 that, by putting out a request for proposals for a full
13 requirement, fixed price product, that it is possible
14 to obtain a lower cost, because the incentive and
15 capabilities of third party firms, such as
16 Constellation and its competitors, allow them to manage
17 a portfolio to a lower cost. They have a profit
18 motivation to minimize costs in every way possible.
19 They have significant economies of scale, the ability
20 to manage it as part of a much larger portfolio, and
21 they have built out and developed an infrastructure of
22 analysis and various tools, various personnel, 24 by 7
23 trading operation, the capability to forecast not only
24 loads, but weathers, abilities to transact across

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[Witness: Allegretti]

1 markets, and other capabilities, that give them both
2 the scope and scale, as well as the infrastructure, to
3 manage a portfolio to a significantly lower cost.

4 Q. On that point, about "managing it to a lower cost", you
5 heard PSNH witnesses say that "all that a competitive
6 supplier would do is add a profit, and PSNH doesn't add
7 profit, it doesn't have a -- it doesn't make a profit
8 on power." Could you respond to that?

9 A. I'd be delighted to. There's absolutely no question
10 that a third party supplier will add a profit or at
11 least an expected profit. Some of these transactions
12 can result in a loss for the supplier. But they would
13 certainly expect to earn a reasonable profit. It has
14 been my experience that these wholesale, full
15 requirements auctions, which are very common, become
16 highly competitive, constraining those profits to
17 competitive levels. And, it is my opinion and my
18 belief that the efficiencies gained, both in terms of
19 the profit-making incentive to reduce costs, as well as
20 the scope, scale, and increased capability to better
21 manage a portfolio to a lower cost, would result in a
22 net savings to customers by adopting the Constellation
23 proposal.

24 I think it has additional benefits in

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[Witness: Allegretti]

1 that it would also simplify the task for the
2 Commission, in terms of reviewing the prudence of the
3 procurement of the supplemental requirements. Most of
4 the regulatory commissions that have adopted this
5 approach, and even here in New Hampshire with respect
6 to the state's other utilities, it's a relatively
7 straightforward process to determine whether the RFP
8 process was conducted in a fair and impartial manner,
9 and whether it was sufficiently subscribed to by
10 bidders to produce a competitive result. I think
11 that's far easier than attempting to analyze the
12 hour-by-hour decision-making that's required to
13 dynamically manage a portfolio to serve load of an
14 uncertain quantity over a given term.

15 Q. If I can just interrupt you there, you heard the PSNH
16 witnesses say that they enter primarily into bilateral
17 contracts. So, it sounds to me as if they're not
18 looking at an hour-by-hour market. So, why would there
19 be any savings of resources in terms of review of the
20 prudence of the transactions by PSNH?

21 A. Well, I think, to really do it properly, to minimize
22 the cost, it's necessary to look at what is happening
23 in the markets on an hour-by-hour basis. It may make
24 sense at a given point in time to trade out of a

[Witness: Allegretti]

1 bilateral transaction and ride the spot market for some
2 portion of the load for some period of time, to lock
3 something else in at another time. There are
4 variations in the quantity being served that have to be
5 addressed. If we see that the weather is getting hot,
6 and we think that we're going to need supplemental
7 power, we have to make decisions: "Do we buy a day
8 ahead? Do we buy a week ahead? Should we buy natural
9 gas now and try to acquire a heat rate toll later?"
10 There are a whole host of decisions. At a company like
11 Constellation, those decisions would be made by a team
12 of professionals, that would include a portfolio
13 manager, strategists, power traders, meteorologists,
14 credit specialists. They would all consult with one
15 another. They would look at what is happening, not
16 only in the electricity market in New England, but also
17 what's happening in neighboring power markets, what's
18 happening in fuel markets, and make decisions on an
19 hourly daily basis with regard to which strategy is
20 going to produce the very least cost for serving the
21 load represented in that portfolio.

22 Q. I interrupted you when you were going through the
23 benefits. Will you continue with summarizing those.

24 A. I think it results in a lower cost. I think it

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[Witness: Allegretti]

1 simplifies the prudency review process. It also
2 enables PSNH to set their retail rates for standard
3 offer service based on the results of the procurement,
4 combined with the costs from their fleet. And, that
5 lends greater stability and predictability and
6 significantly reduced need for reconciliations
7 associated with the retail rate. Mr. Hall described
8 the virtues of reducing that uncertainty and the degree
9 of reconciliation. In my opinion, adoption of this
10 proposal would cause a significant further reduction in
11 the need for reconciliation.

12 Q. And, you described -- I think you heard PSNH describe
13 some of their power procurement process, so are there
14 benefits there, in terms of the costs that are
15 allocated to PSNH for that process?

16 A. There certainly are costs associated with managing a
17 dynamic portfolio. And, I think that, to the extent
18 that is outsourced to a third party, those costs are
19 avoided. I don't have any specific knowledge with
20 regard to how many employees, what types of proprietary
21 models and systems PSNH uses or what their costs are.
22 But, certainly, that function can be avoided, and the
23 costs associated with it. I'd also note that there
24 may, in fact, be an ability to conduct an RFP process

[Witness: Allegretti]

1 in conjunction with some of PSNH's sister companies.
2 In other jurisdictions, I'd observe that the Granite
3 State Electric Company, for example, consolidates its
4 procurement for Granite State with Massachusetts
5 Electric Company, and that seems to have been something
6 that the Commission is comfortable with or that has
7 been successful. Certainly, as a bidder, we've been
8 able to respond to those requests and have been
9 satisfied with the process.

10 Q. Now, you described the benefits of the proposal. What
11 are some of the more significant problems that you see
12 with PSNH's current power procurement process?

13 A. Well, I think one of them is that customers do continue
14 to bear some risk. I think that, while it is possible
15 that, to the extent that PSNH makes mistakes in
16 managing its portfolio, that some of those could result
17 in disallowances. It's also, I think, possible to be
18 prudent and wrong at the same time. Mistakes made by a
19 third party supplier that has bid to a fixed price,
20 those mistakes are with the supplier and its
21 shareholders. There's no ability to pass those
22 through. So, I think there is a risk associated with
23 the manage -- the cost of managing that portfolio that
24 continues to be borne by the ratepayer under the

[Witness: Allegretti]

1 current system that would be avoided by moving to the
2 Constellation proposal.

3 And, as I mentioned earlier, I think
4 it's difficult for the Commission to really effectively
5 evaluate the prudence of the decisions that are made in
6 dynamic portfolio management. And, it requires the
7 Commission to engage in a reconciliation process that
8 is largely, I think, reduced in conjunction with the
9 proposal that we've put forward.

10 Q. Now, you've heard the PSNH witnesses describe again
11 their current power procurement process. Would you
12 expect that the suppliers, who are selling PSNH power
13 today, already include some expected profit in their
14 pricing?

15 A. Certainly, there is a -- there's a profit embedded or
16 an expectation of profit from any entity that would be
17 selling power at wholesale. One would expect them to
18 sell at market prices. It's always possible that
19 someone sells at a loss as well. I think that it is
20 fair to concede that managing the portfolio is a
21 function for which a third party supplier will, in
22 fact, expect to earn a profit. I think those profits
23 are highly constrained by the competitive nature of the
24 process. I think the savings associated with the

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[Witness: Allegretti]

1 reduced cost of the portfolio more than offset the
2 costs associated with a profit margin.

3 Q. How would, functionally, I guess, if PSNH owns its own
4 generation, and the exact operating schedule of those
5 plants, the actual operating pattern of those plants is
6 not a certainty, how would a supplier who's bidding on
7 an RFP deal with that?

8 A. It's a challenge, but not an uncommon problem. It's
9 common in commercial transactions. There are a couple
10 of ways of addressing it. One is to build in
11 requirements for PSNH to provide the third party
12 supplier with a schedule, an entitlement schedule, not
13 unlike what is often done with qualifying facilities
14 and their utility customers. Another option is for
15 PSNH to effectively provide the supplier with something
16 akin to a toll, where the supplier would have the
17 ability to bid and schedule the units to maintain
18 responsibility for the incremental requirement. This
19 would not require the third party supplier to actually
20 purchase the power and resell it to PSNH, but rather
21 would enable them to make -- to have some measure of
22 control over how the power is scheduled. Either is
23 workable, and both are not at all uncommon in the
24 wholesale marketplace. We routinely enter into tolling

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[Witness: Allegretti]

1 agreements that give us scheduling rights associated
2 with another party's power plants. We also routinely
3 enter into entitlement agreements under which we
4 receive periodically the schedule of the proposed
5 output from the units that enable us to manage our
6 residual requirements.

7 Q. If there were an RFP process put in place, do you have
8 a view on how frequently the RFP should be issued?

9 A. These processes are again not uncommon. Sometimes the
10 periodicity of the RFP varies with customer classes.
11 In general, to issue something any more frequently than
12 every three to six months is probably not worth the
13 incremental transaction costs. Annual is not at all
14 uncommon.

15 Q. Are there other elements, in your testimony you
16 referred to and gave a sort of very brief overview of
17 other elements that might be included in an RFP
18 process? Could you just summarize those, the types of
19 things that the Commission could consider if it were
20 going to go down this road?

21 A. Again, you know, one of ones that I threw out is a
22 possibility of consolidation with other companies
23 associated with an RFP process. It is certainly common
24 for Commissions to use a third party to assist or

[Witness: Allegretti]

1 consult in overview of the process, in order to assure
2 that it's conducted in a fair and impartial manner. I
3 know the folks from NU are probably very familiar with
4 the process in Connecticut, in which the Office of
5 Consumer Council, as well as a third party consultant
6 engaged by the Commission, are actively involved in
7 reviewing the bids, together with the utility company,
8 in order to assure that the results are competitive.
9 They provide their analysis to the Commission when they
10 deliberate approval of the contracts, and that process
11 seems to have been successful in producing competitive
12 results.

13 Q. Mr. Hall said that it was his view that this proposal
14 was no different than what Constellation had proposed
15 in the prior docket DE 03-175. And, I know that
16 Constellation responded to a data request on that, but
17 that's not in the record. Could you just give your
18 view on the extent to which this proposal is different
19 from what the Commission considered in that docket?

20 A. Certainly. I reviewed the Commission's order in --
21 December 19th order in that docket, and I was struck by
22 the Commission's particular concerns that, as
23 Allegretti and McLeish had proposed it, that
24 Constellation's proposal at the time would have

[Witness: Allegretti]

1 involved a sale of the output of Public Service Company
2 of New Hampshire's plant to a third party supplier, and
3 a resale of that power back to Public Service New
4 Hampshire. That had two issues that were of concern to
5 the Commission as noted in its order. One was that
6 that might not be permitted by statute, and the other
7 was that the third party supplier would mark up the
8 power on reselling it, and that would not be in the
9 customers' interest. Attempted to focus in this
10 proposal solely on the supplemental requirement,
11 allowing the Commission and Public Service to determine
12 how the output from those facilities would be priced,
13 and allowing for that power to continue to be used to
14 provide the needs of standard service customers,
15 without the need for it to be resold to the Company.

16 Q. So, in this case, there is no sale of the output of
17 those plants to the supplier?

18 A. No.

19 Q. I want to just change gears now and go to the load
20 forecast reporting proposal that PSNH has put before
21 the Commission. And, ask you if you would summarize
22 what Constellation's concerns are with regard to that
23 proposed regulation?

24 A. Yes. We have a number of concerns with it. As we

[Witness: Allegretti]

1 first understood the proposal and as it was first
2 presented, the information regarding retail service
3 agreements would be provided exclusively to Public
4 Service New Hampshire. That created a number of
5 concerns for us. One of which is that that gives them
6 an unfair competitive advantage. We see ourselves as a
7 retailer competing directly with Public Service Company
8 of New Hampshire for retail customers here in New
9 Hampshire. We also see ourselves as a wholesale seller
10 of power competing with Public Service Company of New
11 Hampshire in a wholesale marketplace.

12 To give an example, if I knew what the
13 various terms of contracts and quantities of load of
14 other competing retail suppliers were, and I had
15 surplus power that I wanted to sell in the wholesale
16 market, that would be very valuable marketing
17 information in knowing who to approach for a bilateral
18 sale. That's something Public Service would have the
19 ability to do and something that Constellation would
20 not. And, so, I think adoption of a new rule and
21 amendments to the Code of Conduct here raise some
22 significant competitive concerns. I'm also concerned,
23 at a retail level, that the provision of this
24 information may violate confidentiality provisions

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[Witness: Allegretti]

1 contained in retail service agreements. Those are
2 two-party contracts, and is not always the supplier
3 that entirely owns the information. The information in
4 that contract may also belong to the customer. This
5 could have a serious chilling effect on retail
6 competition. I think a number of retail suppliers,
7 ourselves included, are concerned with how burdensome
8 the reporting requirements are. And, we're
9 particularly concerned that we may get negative
10 feedback from customers, particularly some of our large
11 national accounts, that they don't want to be providing
12 this sort of information, they don't want us to be
13 providing it to someone. And that, again, could have
14 -- could certainly cause us to reconsider whether we
15 want to continue to participate in the retail market in
16 the State of New Hampshire.

17 I note that as the proposal was
18 described by Mr. Labrecque this morning, it sounds as
19 though the information might not be owned exclusively
20 by Public Service New Hampshire, but would be made
21 public in an aggregated form. I still have concerns
22 that suppliers may not be in a position with their
23 customers to provide the information. But, even if
24 they are, I continue to have concerns that aggregation

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[Witness: Allegretti]

1 of that data may not be sufficient to mask the identity
2 of the supplier and/or customer at all times, in all
3 service territories. It doesn't necessarily preserve
4 the confidentiality of the data, and so would continue
5 to have a lingering concern there. I balance against
6 that "what is the value of the information?"
7 Certainly, as a supplier of full requirements
8 load-following service, we have to forecast what we
9 call "attrition" or "migration", the likelihood of load
10 and the quantities of load that we think will leave and
11 return. We do that with proprietary models that we've
12 built. We input historic data, in order to try and
13 predict the future. I disagree with Mr. Labrecque. I
14 think there is considerable value in that data, if you
15 know how to model it and you know how to manipulate it.
16 Which, again, I think goes to the value of having a
17 third party provide this type of service. So, you
18 know, I'm not sure that there is a benefit that
19 outweighs the burden associated with the provision even
20 of aggregated data. Although, I would say that I am
21 less concerned with that than I am with the proposal as
22 I originally understood it, to be that the data would
23 be provided on an exclusive basis to one company.
24 Q. Did you receive a copy of the comments of the Retail

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[Witness: Allegretti]

1 Energy Supply Association that were filed with the
2 Commission yesterday?

3 A. Yes, I did.

4 Q. And, did you have a chance to review those?

5 A. I had a chance to look at them briefly this morning.

6 Q. And, does Constellation support those comments?

7 A. Yes, we do.

8 MR. CAMERINO: Thank you. That
9 completes my direct.

10 CHAIRMAN GETZ: Ms. Hatfield.

11 MS. HATFIELD: Thank you, Mr. Chairman.

12 Good afternoon, Mr. Allegretti.

13 WITNESS ALLEGRETTI: Good afternoon.

14 CROSS-EXAMINATION

15 BY MS. HATFIELD:

16 Q. With respect to the reporting proposal, are you aware
17 of any similar proposal that's in place anywhere else
18 where Constellation does business?

19 A. No, I'm not, at all.

20 Q. And, in any of those places, other states where
21 Constellation does business, is there a similar
22 situation with respect to having a utility that owns
23 its generation, but then also has to purchase
24 additional requirements beyond that for its customers?

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[Witness: Allegretti]

1 A. There certainly are other jurisdictions that are open
2 for retail access where the utility both owns power
3 plants and procures supplemental requirements in the
4 wholesale market. Does that answer the question? I'm
5 trying to be precise.

6 Q. In any of those states, are you aware of any type of
7 process similar to what Constellation is proposing in
8 this case?

9 A. We certainly have had a lot of experience here in New
10 England with utility companies that own wholesale
11 entitlements, and, in some cases, unit ownerships as
12 well, that procure the balance of their requirements in
13 the wholesale market. I'm not aware of any that
14 provided as much as 60 percent from their own
15 entitlements. In many cases, these were small
16 entitlements or QF contracts that were left over, as it
17 were, after divestitures. But examples might include
18 Massachusetts Electric Company, Narragansett Electric,
19 NSTAR. I believe Connecticut Light & Power, for some
20 period of time, continued to own a number of
21 entitlements, although they may have been sold en masse
22 into the wholesale market. But, certainly, it was not
23 uncommon. It's become less common as many of those
24 entitlements have rolled off or many of the units have

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[Witness: Allegretti]

1 been divested. But it's certainly not unique.

2 Q. Does Constellation own any generation in New England?

3 A. No.

4 Q. And, do I understand correctly that your request in
5 this docket is for the Commission to open a separate
6 docket to investigate and consider the process, the RFP
7 process that you're proposing?

8 A. Well, we certainly wouldn't object if they wanted to
9 order it in this docket. But that we think it's a
10 reasonable request to ask them to open a separate
11 docket.

12 Q. And, in terms of the timing, I believe Mr. Hall
13 testified that, in order for PSNH to be able to
14 implement such a process as early as January 1st of
15 2009, that PSNH would need to receive an order from the
16 Commission by the April time frame. Do you concur with
17 that timing estimate?

18 A. I don't really have a basis to say one way or another.
19 The wholesale market is open 24 hours a day, 365 days a
20 year. You can always go into it. I think the question
21 really is one of what their preference is, in terms of
22 their strategy for portfolio management. From our
23 perspective, if we were going to procure full
24 requirements load-following service in a portfolio to

[Witness: Allegretti]

1 meet the PSNH supplemental requirement, we would not
2 need to know as early as April in order to optimize the
3 portfolio.

4 Q. If you wouldn't need to know by April, do you have a
5 month in 2008 when you would definitely need to know
6 for 2009?

7 A. It's hard to say there's a point in time when it's a
8 definite need. There's a preference. More time gives
9 you more flexibility. And, I think that's consistent
10 with what Mr. Hall was saying. So, sooner is
11 preferable. But, I think, you know, we would, for
12 service starting in January, you know, we'd probably
13 need to know by the end of November. I mean, that
14 would be an outside date. Earlier would be preferable.

15 Q. If the Commission chose to put that process in place,
16 in your view, is there a minimum number of bidders that
17 would be necessary as participants, as respondents to
18 an RFP, in order to actually make the process viable
19 and make it work?

20 A. It's generally been the view among commissions that, if
21 a process is under subscribed, if there aren't a
22 sufficient number of bidders, then there is cause for
23 concern that the prices are not reflective of the
24 competitive marketplace. I know one of the things that

[Witness: Allegretti]

1 the Office of Consumer Council in Connecticut has done
2 is to engage a consultant to develop their own forecast
3 against which to compare prices. So, they have got
4 another means besides just the number of bidders to
5 make that check. Most commissions have become
6 uncomfortable when the number of qualified bidders
7 falls below three.

8 Q. And, if that were the case, what would your
9 recommendation be to the Commission, if they did choose
10 to go down this path and there were less than three
11 bidders, what kind of action would be taken at that
12 point?

13 A. Well, first, I think that's very unlikely to happen,
14 given the current environment. These auctions are more
15 routine and more mature than they were when
16 restructuring began. And, I think the order that was
17 submitted as an exhibit to my testimony from
18 Connecticut shows that, in fact, participation has
19 become more, rather than less robust. The general
20 inclination for commissions is to rebid, to go out
21 again, after taking a look and asking the question "was
22 there something in particular that caused the auction
23 to fail?" Was there a sudden event that occurred in
24 the marketplace that might have caused -- had a

[Witness: Allegretti]

1 chilling effect or was there some information issue,
2 bidders weren't advised of something or misunderstood
3 something? So, I would want to know why the bid
4 process wasn't successful. And, I think the first
5 option is to run it again and see if you can get a
6 competitive result the second time around.

7 Q. And, with respect to the reporting proposal, I think
8 you stated that there may be concerns on behalf of
9 customers, in terms of providing that type of
10 information. And, how would you suggest the Commission
11 determine if customers will have that type of concern
12 and if it would have a chilling effect on the market?

13 A. Well, I think you certainly got the comments from RESA
14 and the testimony from myself that it is routine for
15 retail service agreements to contain confidentiality
16 provisions. Those may be overridden by applicable law
17 if the Commission were to adopt a rule here. I
18 certainly don't know until we actually go out and talk
19 with our customers. But I can tell you that it is our
20 experience that customers are very sensitive,
21 particularly large customers, particularly national
22 accounts, about the provision of their load data. They
23 don't want their competitors to see what their
24 electricity consumption is, because that's

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[Witness: Allegretti]

1 competitively sensitive information. And, they don't
2 want -- necessarily want all suppliers to see when
3 they're looking for quotes.

4 So, I don't know, other than talking
5 with customers directly, how else you might acquire
6 that information. But, certainly, I think there is at
7 least a basis on the record here for concern.

8 Q. And, I believe that Mr. Labrecque testified that it was
9 his rough estimate that the value of having this
10 information to PSNH could be in the range of 1 to
11 3 million dollars as a savings to customers. Do you
12 agree with that estimate, that that type of a report
13 would have that kind of value?

14 A. I don't have a basis for putting a value on it. The
15 first time Mr. Labrecque was asked the question he
16 didn't know, he then I think speculated that it could
17 be in that range. I couldn't say.

18 Q. In the RFP process, would you envision PSNH being
19 allowed to be one of the bidders?

20 A. We have no objection to opening the bidding process to
21 any and all qualified bidders. It is generally
22 considered appropriate for any regulated company to
23 abide by a code of conduct or to bid through a separate
24 affiliate. And, provided that it was a level playing

[Witness: Allegretti]

1 field and they were bidding a fixed price on the same
2 basis, we would welcome their participation.

3 MS. HATFIELD: Thank you very much. I
4 have no further questions.

5 CHAIRMAN GETZ: Thank you. Ms. Amidon.

6 MS. AMIDON: Thank you.

7 BY MS. AMIDON:

8 Q. I'm going to go through some history here. Good
9 afternoon, I believe it's afternoon now.

10 A. Yes.

11 Q. Back in docket number DE 06-125, which was PSNH's 2006
12 Default Service case, Constellation had raised some
13 concern about the fact that the amount and the
14 frequency, I think, of over and under collections by
15 PSNH in its Energy Service rates should be mitigated.
16 And, in connection with that, PSNH and Staff and
17 Constellation agreed to talk about considering a
18 recommendation to the Commission to require competitive
19 energy suppliers to provide certain market data, which
20 we -- the Commission now requires that PSNH, Unitil,
21 and National Grid to provide on a quarterly basis.
22 And, it's not forecast data. It's market data on --
23 that demonstrates migration, and I'm talking about the
24 utilities. They don't forecast data, they provide most

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[Witness: Allegretti]

1 recent information on quarterly figures regarding
2 migration of customers. And, the interest in getting
3 that, as I think we talked about here this morning, was
4 to help PSNH plan market power purchases, and to
5 provide some assistance, to avoid those over
6 recoveries, which Constellation objected to, because
7 they might result in an artificially low rate.

8 So, these discussions continued. And,
9 then, subsequently, on July 23rd, Constellation filed a
10 letter with the Commission expressing opposition to any
11 reporting requirement, because it would provide
12 suppliers with "highly confidential load information"
13 and would give PSNH "unfair competitive advantage".

14 Then, in the course of discovery on this
15 docket, we received two different comments from
16 Constellation regarding questions on the reporting
17 requirement. First, in response to Staff Data Request
18 1-8, which I don't intend to introduce into the record,
19 Constellation expresses concern about load forecasting
20 reporting, which is not part of what the proposal --
21 what the proposal included. Then, in response to a
22 data request from PSNH, Data Request 43, Constellation
23 says "if it were possible to ensure that the
24 information would not result in the identification of a

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[Witness: Allegretti]

1 supplier-specific -- of supplier-specific data (e.g.,
2 during a period when there was a very limited number of
3 suppliers participating in the market), Constellation
4 would consider supporting the proposal if the data were
5 available to all suppliers." So, I'm just trying to
6 find out what is Constellation's position on the
7 proposal at this point?

8 A. Sure. With regard to historic load migration, how much
9 load has moved off in the past and moved back on, we
10 have no objection to that, that information. That's
11 looking back. What the proposal included that was
12 particularly troubling was it asked about contractual
13 relationships between retail suppliers and their
14 customers as to quantity and term on a forward-looking
15 basis. And, we are concerned that that is, in fact,
16 very sensitive and proprietary information. So,
17 disclosing that information, "when does my contract
18 with a retail customer expire?" and "what are the
19 terms, in terms of quantity?" And, they're not
20 necessarily simple, they may be fairly complex.

21 Q. So, what did you mean in the response to PSNH's data
22 request that there could be a way that you would
23 support this?

24 A. Do you want me to finish answering the first question?

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[Witness: Allegretti]

1 Q. Oh, I hadn't known that you didn't.

2 A. That's all right. Where was I? The specific aspect of
3 it that was of particular concern to us was the
4 quantity and the term under existing contracts on an
5 executory forward-looking basis. So, to the extent
6 that information is not provided exclusively to one
7 company, but is simply placed in the public domain,
8 that doesn't give Public Service a competitive
9 advantage. That certainly helps with my concern first
10 that it's unfair, that it gives them an advantage. The
11 second concern I have has to do with the
12 confidentiality of the data as between the supplier and
13 its customer. To the extent that aggregation can
14 assure the anonymity of both the supplier and the
15 customer, then I think we could get comfortable with
16 something. That's not how the proposal was originally
17 presented, and hence we had some very particular
18 concerns. I continue to have concerns, though, that we
19 don't have sufficient levels of retail migration and
20 sufficient numbers of suppliers and customers that a
21 mere aggregation of the data will be adequate in order
22 to mask the identities of the parties and therefore
23 preserve the confidentiality of the customer-specific
24 data. But I'm open to being convinced.

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[Witness: Allegretti]

1 Q. So, you would, if -- you would agree that the
2 Commission could proceed with a reporting requirement,
3 subject to, say, a rulemaking process, which would
4 allow for a hearing and comment by the competitive
5 energy suppliers, to come up with a reporting
6 requirement?

7 A. The Commission is certainly free to conduct a
8 rulemaking at any time. We would not object to a
9 proposed rule that meets those two criteria, that does
10 not give an unfair competitive advantage to one entity,
11 and that is adequate to preserve the anonymity and
12 confidentiality of customer and supplier-specific data.
13 We also ask that the rule not be unduly burdensome on
14 retail suppliers, in terms of the frequency and the
15 detail of the data that's being provided.

16 Q. Well, that's --

17 A. So, to the extent that a proposed rule meets those
18 three criteria, Constellation would be in a position to
19 support such a rule.

20 Q. But, on a quarterly basis, as is supplied by the
21 utilities, would be reasonable, would it not?

22 A. I think the reasonableness goes both to the frequency
23 and the level of detail. I think that's probably a
24 reasonable frequency.

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[Witness: Allegretti]

1 Q. So, you wouldn't object to participating in a
2 rulemaking to require such reporting?

3 A. We would never object to participating in a rulemaking.
4 We would be happy to tell you what we think in response
5 to a proposed rule.

6 Q. And, you agree that the Commission can go ahead and
7 promulgate such rules?

8 A. The Commission has the authority to conduct rulemaking
9 proceedings, I would agree.

10 MS. AMIDON: Thank you. That's it.

11 MR. EATON: I have one or two.

12 WITNESS ALLEGRETTI: Nice to see you
13 again, Mr. Eaton.

14 MR. EATON: Nice to see you, too, Mr.
15 Allegretti.

16 BY MR. EATON:

17 Q. Mr. Allegretti, before you took the stand, I provided
18 you with a document that contained some, but not all of
19 your responses to the data requests that PSNH asked.

20 A. I have it in front of me.

21 Q. Okay. And, this -- I'm going to go pretty much right
22 through these from beginning to end. And, so, I
23 thought it would be helpful if everyone had a copy, and
24 not mark them as an exhibit. I haven't rewritten these

[Witness: Allegretti]

1 or changed the text. This is what you responded to?

2 A. I have not had a chance to review this document since I
3 was handed it, but I will accept that.

4 MR. EATON: Mr. Chairman, could we have
5 this marked, "Exhibit 9"?

6 CHAIRMAN GETZ: It will be so marked.

7 MR. CAMERINO: Mr. Eaton?

8 BY MR. EATON:

9 Q. First of all, I would like to --

10 MR. CAMERINO: Is that Exhibit 8 or did
11 I miss one?

12 CHAIRMAN GETZ: I think we have a record
13 --

14 MS. FILLION: Eight, I think. Wasn't
15 the request 7?

16 CMSR. MORRISON: No, I took it down as
17 6.

18 MR. EATON: Okay, and the testimony was
19 --

20 WITNESS ALLEGRETTI: My prefiled
21 testimony was marked as "Exhibit Number 7" then.

22 MR. EATON: Okay.

23 CHAIRMAN GETZ: All right. So, this
24 would be --

[Witness: Allegretti]

1 CMSR. MORRISON: Eight.

2 MS. FILLION: Eight.

3 (The document, as described, was
4 herewith marked as Exhibit 8 for
5 identification.)

6 BY MR. EATON:

7 Q. For starters, two companies have intervened in this
8 proceeding, Constellation NewEnergy Group, that's the
9 retail business that sells directly to customers?

10 A. Yes. Constellation NewEnergy, Inc.

11 Q. And, the other entity, Constellation Resources Group?

12 A. No, Constellation Energy Commodities Group, Inc.

13 Q. And, that's the whole supplier that would be -- would
14 be preparing a bid, if they wanted to participate in an
15 RFP process that you described?

16 A. Yes.

17 Q. My first questions have to do with how that bid would
18 be put together, and that's why I started with your
19 response to PSNH 15, which is the second page of
20 Exhibit 8. Now, your phrase -- your response says,
21 first of all, it would reflect the cost of supplying
22 the service. That would be procuring power supplies,
23 correct?

24 A. Among other things.

[Witness: Allegretti]

1 Q. And all those people at your company who would be
2 managing the portfolio, looking at it 8,760 hours a day
3 -- a year and working on this, on this successful
4 contract?

5 A. Like any business, we have an overhead cost, and that's
6 part of our cost of doing business.

7 Q. Now, the second part would be the "cost of managing the
8 risk". Could you explain what that is?

9 A. Sure. Let me try to piece it together from the
10 ground-up for you, Mr. Eaton, if I can. We would take
11 a look at "what is the requirement we're being asked to
12 serve?" Knowing that it's uncertain as to quantity, we
13 do our best to figure out what it is. We would then
14 take a look at prices in various markets, forward power
15 market, the long-term/short-term FTR markets, the fuel
16 markets, and so forth, and we would come up with a
17 concept of a hedging cost. What do we think it will
18 cost to buy some hedges in order to manage the risk?

19 In addition to that, though, there is
20 some quantity uncertainty that we cannot hedge. We
21 simply can't manage that on day one. So, we have to
22 form an expectation of what it will cost on a going
23 forward basis to supply power given that amount of
24 uncertainty. And, we come up with a total cost. That

[Witness: Allegretti]

1 includes a known cost and a margin, which covers both
2 our unknown costs, as well as our expected profit.
3 Whether we ever actually realize a profit or a loss
4 will, obviously, depend on how conditions unfold during
5 the course of the provision of the service. But that's
6 sort of the ground-up process for preparing a bid.

7 We're also particularly sensitive, when
8 we decide upon a margin, with regard to how highly
9 competitive the process is, do we need to put in a
10 smaller margin number in order to be successful in
11 winning the business. In some cases, we will look and
12 say to ourselves "We don't think this one's worth it."

13 Q. Is the cost of managing the risk included in the price
14 that PSNH would pay for the supply?

15 A. The cost of the supply is the price. The price is
16 developed by adding up the known costs and a margin for
17 the uncertainty and the expected profit.

18 Q. So, assuming that this cost is passed on to -- assuming
19 that the price for the supplemental supply is paid by
20 the customer, --

21 A. Uh-huh.

22 Q. -- we're shifting the risk to the customers, whether
23 it's calculated ahead of time by your margin --

24 A. No, I think that's inaccurate, Mr. Eaton. I think

[Witness: Allegretti]

1 you're actually shifting the risk to the supplier. We
2 don't have the ability to seek a reconciliation or a
3 pass-through in order to impose the cost of uncertain
4 outcomes on the customer after the fact. And,
5 therefore, we assume that risk under the fixed price
6 bid. So, I think it's the other way around.

7 Q. Didn't you just say or didn't your answer include a
8 cost of managing the risk? There is a risk premium
9 added to the bare cost -- well, let me back up. Is
10 your bid based upon the cost of power, plus your
11 profit? Just those two elements. The cost of the
12 power that you procure and your profit?

13 A. I'll try to state this again for the third time,
14 Mr. Eaton.

15 Q. I would like you to answer the question. Is there a
16 risk premium included in your price, "yes" or "no"?

17 A. There is a cost associated with risk. That cost is a
18 component that is used to build the price.

19 Q. And, customers pay that when they pay for power under
20 Default Energy Service?

21 A. I think you're under a misconception. Let me see if I
22 can help clarify. In our view, there is a cost
23 associated with a risk. And, the cost manifests itself
24 in one of two ways. You either carry the risk or you

[Witness: Allegretti]

1 pay someone else to take that risk. The term "premium"
2 somehow implies something in addition to the cost of
3 the risk. It is, in fact, really a liquidation of the
4 cost associated with that particular risk. So, yes,
5 there is a cost associated with that risk. Under the
6 Constellation proposal for a fixed price bid, that cost
7 is shifted from the customer to the supplier. But
8 there is, in turn, embedded in the price a reflection
9 of that cost as well. So, I think the customer carries
10 less risk, and the price reflects the shifting of that
11 risk from the customer to the supplier.

12 Q. And, would you imagine that all other suppliers would
13 be going through a similar process in preparing a bid?

14 A. I would imagine.

15 Q. Okay. Thank you. Now, on the next page is your
16 response to PSNH 32. And, I think that has -- I was
17 interested in the phrase in that response "sufficiently
18 in advance of the date on which its energy service
19 rates go into effect to allow for the selection of the
20 winning bidder." And, I think, in response to a
21 question from Attorney Hatfield, you said that
22 "November 1st is really a drop-dead date", is that
23 correct?

24 A. No, I didn't use that phrase.

[Witness: Allegretti]

- 1 Q. I'm sorry.
- 2 A. But I think I wouldn't want to get much beyond, say,
3 November, the end of November, if I wanted service to
4 start in the beginning of January. I think you need to
5 allow at least some time for the bids to be submitted,
6 for the contracts to be signed, for the hedges to be
7 procured, and for the necessary exchange of information
8 between the supplier and the utility to take place. I
9 think it would be probably preferable to do it even
10 sooner.
- 11 Q. And, I believe in another response, and I haven't
12 included it in here, is that PSNH would pick a date on
13 which the bids would be due, and the estimated bid
14 would be based upon that date or the market conditions
15 upon that date. I think you've said that there were
16 certain dates that PSNH really shouldn't pick because
17 of the volatility of the markets on those dates. So,
18 is there a particular date that's important?
- 19 A. Let me give you an example of what I had in mind.
- 20 Q. Okay.
- 21 A. And, it actually involves NU and some very productive
22 discussions that we had with your folks in Connecticut.
23 They were issuing an RFP with bids due on I think it
24 was a Tuesday, one hour after the natural gas storage

[Witness: Allegretti]

1 numbers are publicly released. Well, the market
2 typically, the power markets, which are often a
3 function of natural gas prices, typically respond to
4 the release of that gas storage number at, you know,
5 9:00 in the morning, say, I'm not sure of the exact
6 time frame, and it takes a few hours for it to sort of
7 work through the marketplace. That can be a
8 particularly bad day of the week or the month to go out
9 and solicit power at that time of day. So, situations
10 like that, I think it's just helpful to, and, quite
11 frankly, I think, you know, your experience in other
12 states, in Connecticut and Massachusetts, is
13 informative on that, as well as the experience of the
14 other utility companies here in New Hampshire. We'd be
15 happy to meet with Public Service, you know, and talk
16 about what are normal times, as opposed to certain
17 dates that it might be best to avoid. That's what I
18 had in mind.

19 Q. Did your testimony just now say that you would go out
20 and get the supplies after you win the bid?

21 A. Typically, some portion would be hedged as soon as the
22 bidder is advised that they are successful. And, the
23 reason for that is that the margins are so thin in this
24 business that even a small move in the market that can

[Witness: Allegretti]

1 take place in the course of a single day can be enough
2 to wipe out your entire expected profits. So, it's
3 necessary to react fairly quickly. In fact, we've
4 emphasized to this Commission in the past, in
5 connection with other utility companies, that it's
6 necessary for the approval process, from the time the
7 winning bidder is selected to the time the Commission
8 acts, to be as short as possible.

9 Q. What would be that margin?

10 A. I am not at liberty to discuss specific profit margins
11 in a public forum. In fact, I would have serious
12 antitrust concerns in doing so. What I can tell you
13 about profit margins in this business is that it is a
14 highly competitive business, and that profits are
15 constrained by the level of competition to what an
16 economist would expect normal profit margins in any
17 highly competitive business to be.

18 Q. Is it greater or less than PSNH's overall rate of
19 return?

20 A. I don't know enough about PSNH's overall rate of return
21 to be able to answer that question, Mr. Eaton.

22 Q. All right. Let's -- And, then, in response to Number
23 34, a failed bid would result in a -- in a rebid.
24 That's one possibility, correct?

[Witness: Allegretti]

- 1 A. Yes. My response to the question "What alternatives
2 would the Commission have if very few bidders, or a
3 single bidder, responded to the RFP process?" The
4 response was "It is extremely rare for such a situation
5 to occur because of the robust nature of the wholesale
6 power market. However, in such an event, the load
7 could be rebid." I think that's the response as well
8 that I gave to Ms. Hatfield, when she asked the
9 question earlier today.
- 10 Q. So, if we had an October date for bids to be due, and
11 we had less than three bidders, we would have to rebid
12 before the end of the year in order for the winning
13 bidder to begin putting together their supplies for the
14 following year. Is that a correct scenario, in case of
15 a failed bid?
- 16 A. Well, I think, as a general proposition, it stands to
17 reason that, if you need to rebid, you need to allow
18 yourself sufficient time from when bids are due to the
19 implementation date. And, again, consistent with the
20 response I gave earlier, and I think with Mr. Hall's
21 statement, allowing more time is generally preferable.
22 But, as I say, the markets are open 365 days a year.
23 And, certainly, to the extent that there's an exigent
24 circumstance, I think bidders are willing to respond

[Witness: Allegretti]

1 more quickly. But I think you're better advised to
2 allow sufficient time.

3 Q. Mr. Allegretti, could you turn to PSNH 11, which is the
4 fifth page of Exhibit 8.

5 A. Yes.

6 Q. And, I'm interested in the last sentence of that
7 response: "The portfolio manager is financially
8 incentivized, through his compensation structure, to
9 manage to the lowest" -- "manage the portfolio to the
10 lowest possible cost." Did I read that correctly?

11 A. Yes, that's what it says.

12 Q. And, am I correct when I assume the portfolio manager
13 doesn't take charge until the bid has already been
14 accepted, correct?

15 A. It's a little more complex than that. Let me see if I
16 can explain. In general, in preparing a response to a
17 bid, and I can't speak for our competitors, but I can
18 tell you how we do it at Constellation. A team of
19 folks will be put together, and there will be a lead
20 respondent in our origination group who will coordinate
21 the effort. They'll consult closely with the traders,
22 portfolio manager, credit specialist, with the Legal
23 Department, and with others on the transaction team to
24 try and put together that bid. The bid then generally

[Witness: Allegretti]

1 has to go to a management committee for approval, in
2 order for us to go ahead and participate in the RFP
3 process. The management of the company as a whole
4 meets by a Commitments Committee, some larger
5 transactions require board approval, and the necessary
6 approvals have to be obtained.

7 When the bid is actually awarded,
8 assuming that Constellation is the successful bidder,
9 then various folks throughout the Company will be
10 instructed to go ahead and to begin transacting
11 different types of transactions. We might buy natural
12 gas, we might buy power in New York, we might put on
13 one type of hedge, move out of it later. But,
14 generally, that will be done under the direction of a
15 portfolio manager.

16 Q. And, after the bid is awarded, the portfolio manager,
17 his incentive to minimize costs improves the margin
18 that the competitive supplier actually realizes on the
19 bid, correct?

20 A. The competitive wholesale supply, retail supply
21 business is generally one that I found includes
22 compensation structures that are a mix of base and
23 incentive compensation. Incentive compensation
24 generally tends to be a function of two things; one is

[Witness: Allegretti]

1 the overall performance of the company and the other is
2 the performance of the individual, who's evaluated by
3 their peers and their supervisors. So, the portfolio
4 manager, and, for that matter, everyone else on the
5 team, has an incentive for the company to be successful
6 in its management of the portfolio. And, to do that,
7 they are going to look for ways of driving all the
8 possible costs out of the hedging and supply.

9 Q. I'm moving now to Response 12. And, I think you
10 answered most of my questions previously, and let me
11 summarize what I think you said and then tell me if I'm
12 wrong. That many of the companies in New England have
13 divested themselves of the generation, and that it was
14 the leftovers of generation, IPPs and some unit
15 entitlements that were reflected in the companies that
16 you -- that you listed there in Exhibit 12 [Response
17 12?]?

18 A. Yes, I think -- I'd stand behind the testimony that I
19 gave earlier, but I think that's an accurate reflection
20 of my testimony.

21 Q. Isn't this situation vastly different than those, in
22 the fact that more than 50 percent of the load will be
23 supplied by PSNH's generating units?

24 A. I wouldn't use the adjective "vastly". But I would say

[Witness: Allegretti]

1 that it is different, in that a larger percentage of
2 the load is provided by the owned units of PSNH.

3 Q. And, does there have to be greater numbers of risk
4 management or a greater percentage of risk management
5 if you have a 300-megawatt unit that could trip off and
6 require the competitive supplier to immediately supply
7 that 300 megawatts?

8 A. As compared to?

9 Q. As compared to the types of arrangements that Central
10 Maine Power, Bangor Hydro, Massachusetts Electric,
11 Narragansett Electric Company have with their leftovers
12 from pre-deregulation divestitures?

13 A. No, I think most of the entitlements were
14 unit-contingent to begin with. So, I think the risk of
15 forced outages is not materially different.

16 Q. Aren't they a lot smaller for the other companies?

17 A. Well, as a percentage of the particular load being
18 served, they are a smaller percentage. But, if I look
19 at this from a Constellation perspective, we manage as
20 a combined portfolio all of the load that we serve
21 throughout New York and New England. So, as a
22 percentage of that, it's not a particularly troublesome
23 transaction. You know, the outage risk is always a
24 combination of two things. One is "what is the

[Witness: Allegretti]

1 potential magnitude of the outage? And, "what is the
2 probability?" And, again, I think this goes to the
3 ability of companies with more scope and scale to more
4 effectively manage those types of risks than smaller
5 companies.

6 Q. Would you expect fewer bidders for PSNH than you would
7 for a company like Unitil, that was purchasing
8 load-following service for its entire load?

9 A. No, I would not.

10 Q. Next page, on response to Number 19 -- well, before we
11 go there, let me ask a question. You've been comparing
12 your resources to PSNH's resources, as far as managing
13 the contract. Which entity would have better access to
14 information regarding the following items, and in
15 "better", I mean faster and more accurate information:
16 Would Constellation or PSNH have faster or more
17 accurate information on unscheduled outages?

18 A. At which units?

19 Q. At its own units.

20 A. Unscheduled outages?

21 Q. Yes.

22 A. They'd probably be about the same.

23 Q. Scheduled maintenance outages, which happen to turn out
24 to be extended or end earlier than projected?

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[Witness: Allegretti]

- 1 A. PSNH would probably know about it before it contacts
2 the ISO-New England and that information becomes
3 public. So, unless PSNH were under an obligation to
4 provide the supplier with that information on a same
5 time basis, you'd probably know it first.
- 6 Q. What about the movement of customers off of PSNH's
7 Default Service or, in the alternative, the movement of
8 customers back on to PSNH's Default Service?
- 9 A. It would depend on whose customers they are.
- 10 Q. But, to the extent they weren't Constellation's
11 customers, who would --
- 12 A. Again, I'm sort of drawing back to Mr. Hall's testimony
13 that that information is held by one side of the
14 company on the Code of Conduct, but not by the other.
15 So, I guess a portion of the company would have that
16 information sooner than we would.
- 17 Q. Didn't Mr. Hall say that that information was
18 aggregated, and that Customer Service wouldn't call up
19 Mr. Labrecque and say "Hey, ABC Corporation is coming
20 back on line in the first of the month", but it would
21 be aggregated. Is that a fair characterization of what
22 Mr. Hall testified to?
- 23 A. I'd have to go back and look. But, to the extent that
24 it's aggregated, I would then wonder why the same

[Witness: Allegretti]

1 information couldn't be provided to the supplier at the
2 same time it's provided to the other side of the
3 company within PSNH. I certainly wouldn't see any
4 impediment to that. But, as a current practice, it
5 may, in fact, be PSNH's information sooner.

6 Q. Okay. Could we return to PSNH 19?

7 A. Sure.

8 Q. And, I'm reading the last sentence, "A competitive bid
9 process will on an overall basis provide power at a
10 lower cost, which Constellation believes is one of the
11 reasons that it is so widely used in New Hampshire and
12 in other jurisdictions. "Lower cost" than what? Than
13 the second highest bid?

14 A. Than any alternative to a competitive bid process that
15 I can think of off hand.

16 Q. Including the way Public Service Company has been
17 providing Default Service since restructuring?

18 A. That would be my opinion.

19 Q. Any proof of that?

20 A. It's very difficult to prove to a statistical certainty
21 or in a mathematical way that PSNH is cheaper or that a
22 competitive solicitation is cheaper. And, in fact, on
23 a short-term basis, one might just get lucky, and the
24 other not. But I think that what it really comes down

[Witness: Allegretti]

1 to is the issue that we have identified here today,
2 which is whether an entity, that has the scope and
3 scale and incentive and infrastructure to manage a
4 dynamic portfolio, will achieve a reduction in cost in
5 providing that portfolio that is greater than the
6 return, the expected return that will be embedded in
7 their bid, in order to do it at a lower cost? And, I
8 think, you know, my opinion is "yes".

9 Q. On Page 12 of your testimony, you refer to a decision
10 by the Connecticut Department of Public Utility
11 Control, and I think you included that as an attachment
12 to your testimony?

13 A. Yes.

14 Q. I just have one question. Are you aware of a docket
15 initiated by the Department of Public Utility Control
16 to consider whether to allow the procurement of
17 transition service energy via bilateral contracts,
18 rather than via a competitive bid mandate?

19 A. Indeed, I'm aware that the legislature has mandated
20 that the Commission write a report on that subject,
21 that they have recently initiated a notice soliciting
22 input and comments so that they can begin to prepare a
23 report that attempts to address that question.

24 Q. Okay. Could we go to the response to PSNH 21, which is

[Witness: Allegretti]

1 Page 8 of Exhibit 8. Do you think that the PSNH
2 process is opaque?

3 A. Opaque? I certainly don't know how I would go about
4 familiarizing myself with the details that go into the
5 decision-making process for managing the portfolio for
6 PSNH's supplemental requirements.

7 Q. And, you're not -- you know no more after hearing
8 Mr. Labrecque's testimony as to what Liberty Consulting
9 does in its after-the-fact review?

10 A. Not much.

11 Q. Aren't utilities always subject to an after-the-fact
12 review, and also subject to providing all information
13 that the regulators request?

14 A. Oh, sure. Sure. But the question is, how do you begin
15 to evaluate the decision to buy a forward strip at
16 10:00 on a Tuesday afternoon? How do you know that was
17 the best decision relative to the market conditions at
18 the time? Do you have to take a look at what the
19 curves were, what the quotes were, what Gas Daily says?
20 I mean, I don't understand how Liberty Consulting could
21 go and look at each decision that has to be made. And,
22 the beauty of the process that Constellation is
23 proposing is that they don't have to. You simply
24 accepted the lowest possible bid, you've locked it in

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[Witness: Allegretti]

- 1 at a fixed price, and it's now someone else's problem
2 to worry about the underlying cost. I think it's a
3 very difficult process to figure out which decisions
4 ought to be second guessed on the part of the portfolio
5 manager at PSNH under the current process.
- 6 Q. Could we now to turn to Response 25, on Page 9.
- 7 A. Sure.
- 8 Q. If you could assume that PSNH beefed up its power
9 supply planning and procurement, and we had
10 meteorologists and everything that you've described?
- 11 A. Sure. Including an incentive?
- 12 Q. No.
- 13 A. Okay.
- 14 Q. But we had risk premiums just like yours, we had all
15 the same people, all the same personnel, and they were
16 equal in expertise and training.
- 17 A. So, to be clear then, you are earning a margin for
18 managing risk under your hypothetical?
- 19 Q. Right.
- 20 A. So, you do have an incentive then?
- 21 Q. Yes. But you're --
- 22 A. I just want to understand the question.
- 23 Q. But there's no profit added to that.
- 24 A. But you're potentially exposed to loss? If what you've

[Witness: Allegretti]

- 1 charged for managing the risk turns out to be
2 insufficient relative to the risk that manifests, it's
3 your loss?
- 4 Q. Yes. It's called "imprudence", and it's done through a
5 process called "reconciliation" after the fact.
- 6 A. Well, imprudence, though, is different than a fixed
7 price. I mean, I can be prudent and wrong at the same
8 time.
- 9 Q. No, all I'm saying is, we improve the process we
10 already have to equal yours.
- 11 A. In every way?
- 12 Q. Except for the risk and the profit.
- 13 A. So, you take no risk and you earn no profit, but you've
14 improved all of your capability?
- 15 Q. We take the risk that -- We take the risk that our
16 actions will be deemed imprudent, and we make no profit
17 on these transactions.
- 18 A. Okay. So, if you incur a loss, but you were prudent,
19 you can recover that loss?
- 20 Q. Yes.
- 21 A. Okay. I understand the hypothetical.
- 22 Q. Which scenario would cost less?
- 23 A. Oh, definitely put it out to a third party that has an
24 incentive, I think.

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[Witness: Allegretti]

1 Q. But they're equal. They're just as good --

2 A. You've got the capability, but --

3 Q. -- just as good as you are?

4 CHAIRMAN GETZ: One at a time please.

5 BY THE WITNESS:

6 A. You have the capability, but, because you don't earn
7 any profit, you don't have the necessary incentives and
8 motivations. I think those are powerful tools. And, I
9 think they should be harnessed, and I think they will
10 result in a lower cost. But that's just my opinion.

11 BY MR. EATON:

12 Q. Okay. Could we turn to Page 10, which is response to
13 Question 41.

14 A. Sure.

15 Q. And, if I can summarize this response. There would be
16 at least four out of five areas where there would be
17 reconciliation under your proposal.

18 A. Give me a minute to read it, I can count them for you.
19 Approximately. I think the answer, Subresponse 4 is
20 contingent on some additional facts. But, roughly.

21 Q. So, even if your proposal is adopted, there will be
22 over and under recoveries that will be recovered from
23 customers?

24 A. I think that's necessary, because the difficulty is

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[Witness: Allegretti]

1 that 60 percent of your power comes from a set of
2 regulated assets. The output of which is simply not
3 known or committed to at this time. And, so, the
4 reconciliations really spring primarily from the fact
5 that you've got this hybrid of part of the supply
6 coming from PSNH's regulated assets and part of it
7 coming from a fixed price proposal from the
8 marketplace.

9 Q. Now, in response -- I'm moving onto the next page of
10 Number 36.

11 A. Oh, we're getting near the end, Mr. Eaton.

12 Q. Yes, we are. Now, we're getting into what I started
13 off with as Constellation retail versus Constellation
14 wholesale.

15 A. Sure.

16 Q. And, you state that "Constellation NewEnergy", which is
17 retail wing, "would not benefit directly, but it would
18 benefit to the extent that power sold by PSNH at its
19 energy service rate better reflects the cost of such
20 power during the period that it is provided."

21 A. Yes.

22 Q. But it wouldn't reflect the cost if there were over and
23 under recoveries brought forward from a previous
24 period, correct?

[Witness: Allegretti]

1 A. In trying to answer your question, the point I was
2 attempting to convey here is that, as a retail
3 marketer, and NewEnergy is no different than any other
4 retail marketer, the more closer the price to beat, the
5 default price, (a) is consistent with the market, and
6 (b) is a known shopping component that we can show to
7 the customer, then the easier it will be for such a
8 retailer to effectively market here in New Hampshire
9 within the PSNH territory. That was the benefit I was
10 attempting to describe to our retail business.

11 Q. If the cost of default energy service went up, and we
12 could isolate it based upon the -- upon going to a
13 competitive supplier RFP process, wouldn't
14 Constellation NewEnergy benefit by being -- having a
15 higher default service price?

16 A. It's always possible with market fluctuations that,
17 when you lock in a fixed price, that the market price,
18 the prevailing market price can move relative to that
19 fixed price. And, to the extent that it moves above,
20 marketing opportunities are limited; to the extent it
21 moves below, they're enhanced.

22 Q. All other things being equal, higher default service
23 prices benefits Constellation NewEnergy, correct?

24 A. All other things being equal? Well, Constellation

[Witness: Allegretti]

1 NewEnergy is always in a better position to sell a
2 product where its cost is below the price it has to
3 beat. To the extent that a higher default price means
4 that there's more of a window there, then that would be
5 an enhanced opportunity. I don't know how else to be
6 more specific.

7 Q. Okay. One final series of questions concerning the
8 load forecasting proposal.

9 A. Yes.

10 Q. Are you familiar with the term "anti-gaming"?

11 A. I don't know that as a term of art, but I've certainly
12 used that term or heard it used.

13 Q. Do other jurisdictions have anti-gaming provisions,
14 which prevent customers from jumping on and off of the
15 supplier-of-last-resort service, like default service?

16 A. The prevalence of such provisions varies from
17 jurisdiction to jurisdiction, utility to utility, and
18 rate class to rate class.

19 Q. Other jurisdictions have these?

20 A. There are some rate classes, some utilities, some
21 jurisdictions, where there are restrictions that are
22 imposed. Generally, on the ability of a customer that
23 has once left the default service, and once returned,
24 to again depart without a minimum stay.

[Witness: Allegretti]

1 Q. Did this Commission explore anti-gaming provisions in
2 previous dockets concerning the default energy service
3 rate?

4 A. I believe this issue has come up in proceedings before
5 this Commission. I couldn't tell you whether -- what
6 specific proceedings they were. But, yes, I do have a
7 recollection of the issue being discussed at this
8 Commission.

9 Q. And, wasn't the reporting requirement that's contained
10 in Exhibit 3 offered as an alternative to anti-gaming
11 provisions in previous dockets?

12 A. I don't recall.

13 MR. EATON: Thank you. That's all I
14 have.

15 CHAIRMAN GETZ: Thank you.

16 BY CHAIRMAN GETZ:

17 Q. I just wanted to follow up on one piece of this, Mr.
18 Allegretti.

19 A. Sure.

20 Q. I'm just trying to think through, and, of course,
21 making no -- taking no position on the underlying issue
22 of whether we should open another proceeding or how
23 that other proceeding might play out. But I think
24 there's been first raised by Mr. Hall the notion of

[Witness: Allegretti]

1 looking for -- I believe was looking for a final order
2 by April, and you said it could come later in the year,
3 and I think Ms. Hatfield addressed this issue somewhat.
4 But I'm trying to think of what else might normally
5 come after a final order, and if you considered any of
6 these pieces or just how you think it might play out.
7 Because it seems like there's a final order, there's a
8 possibility for rehearings, then there's going to have
9 to be, I guess, an RFP produced. I'm not sure if
10 there's any thought about whether the Commission then
11 should have some approval over what the RFP is. Then,
12 the RFP is going to have to be issued. Then, a winner
13 selected, and then some PUC involvement in approving
14 the winner. It seems to me there's a number of other
15 steps that get you well out beyond just taking an
16 immediate step after a final order. But have you given
17 any thought to how that would play out and how that
18 would work out into your -- your thoughts of, I mean,
19 when you said "in November for a final order", it seems
20 to me, if we have to do any of those extra processes,
21 you're really into the following year?

22 A. Yes, I was really thinking the end of November is when
23 I would need to see the RFP. I guess, you know, you're
24 right, there are legal requirements, and I'm not the

[Witness: Allegretti]

1 best expert on those, in terms of how many days for
2 rehearing and how many days for appeal and so forth.
3 But, in terms of the actual things that have to be
4 done, in terms of putting together an RFP, in terms of
5 assembling load data, getting that information out to
6 bidders, and sort of setting up the process for
7 reviewing the bids, the good news is that you're not
8 plowing virgin soil here. I mean, this is done here in
9 New Hampshire. And, it's certainly done everywhere
10 else by the Northeast Utility Company subsidiaries in
11 Massachusetts and Connecticut. So, I think a lot of
12 this is sort of not new ground that needs to be plowed.
13 And, that ought to make, even though you have correctly
14 identified a fair number of steps that need to be
15 taken, it ought to make a lot of them fairly simple to
16 do, simply because we have experience, as does
17 Northeast Utilities.

18 CHAIRMAN GETZ: Okay. Thank you. Mr.
19 Camerino, any redirect?

20 MR. CAMERINO: No redirect.

21 CHAIRMAN GETZ: Then, if there's nothing
22 else for this witness, you're excused. Thank you, Mr.
23 Allegretti.

24 WITNESS ALLEGRETTI: Thank you very

[Witness: Allegretti]

1 much, Mr. Chairman.

2 CHAIRMAN GETZ: Well, let me address
3 first one administrative matter. Is there any objection
4 to striking identifications and admitting the exhibits as
5 full exhibits?

6 (No verbal response)

7 CHAIRMAN GETZ: Hearing no objection,
8 they will be admitted as full exhibits. Is there anything
9 else to discuss, before providing the opportunity for
10 closing statements? Ms. Amidon.

11 MS. AMIDON: Yes. Thank you. I just
12 wanted to, and Mr. Allegretti referred to this document in
13 his testimony, yesterday afternoon we received comments on
14 the proposed reporting requirements from the Retail Energy
15 Supply Association. There are some inaccuracies in this
16 document. But, having said that, I just want to point out
17 it's not subject to cross-examination, so it should be
18 considered as public comment for purposes of this hearing.

19 CHAIRMAN GETZ: Now, this was filed as a
20 -- under this docket, 07-096, because I haven't seen that
21 document?

22 MS. AMIDON: That's interesting. It's
23 filed under two dockets, 06-125, which was the 2006 Energy
24 Service docket for PSNH, and docket number 07-096, and it

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1 filed late yesterday.

2 CHAIRMAN GETZ: Okay. Well, I guess Mr.
3 Allegretti noted his agreement with these comments. Is
4 there any -- it seems like it's appropriately addressed as
5 a public comment. Does anybody have anything to add on
6 that issue?

7 (No verbal response)

8 CHAIRMAN GETZ: Okay. All right. It
9 will be entered into the -- it's filed in the docket and
10 we'll treat it as a public comment. Before we give the
11 opportunity for a closing statement, I want to make sure I
12 understand, that if everybody could address this issue,
13 with respect to the, you know, the September 14 joint
14 proposal on competitive market data filed by Staff, and
15 there was the previous July 23rd letter by Constellation.
16 And, in our order of notice, we had directed that a
17 proposal be provided on how competitive suppliers could
18 provide information about the amount of load under
19 contract for an upcoming year. I'm taking it that there
20 appears to be a consensus emerging that this is something
21 better addressed through a rulemaking. So, I'd just ask
22 in your closing statements, I'd like to hear whether I am
23 correct in drawing that conclusion or if there are some
24 other proposals by the parties on that issue.

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1 So, I think we'll start with closings
2 with you, Mr. Camerino.

3 MR. CAMERINO: Thank you, Mr. Chairman.
4 Why don't I start with that last issue. On the proposed
5 load forecast reporting requirement, I think Constellation
6 was a little bit uncertain coming into this docket. It
7 seemed to us that it was a rule of general application and
8 should be part of a rulemaking. And, it sounds from the
9 testimony from PSNH that, although they may not have
10 thought that through in detail, conceptually that's what
11 would be necessary, because they describe what is in this
12 proposal as not being a specific proposal, it's more of a
13 conceptual proposal that needs further refinement. So, I
14 do think there would need to be a rulemaking. And,
15 without that, it's not clear to me how anyone, other than
16 Constellation and RESA, which filed comments, might even
17 though when they come into this market a year from now
18 that such a requirement existed. They're not going to
19 know about this order sitting in the Commission's -- on
20 the Commission's website. So, I do think there would need
21 to be a rulemaking.

22 Constellation has indicated why it
23 thinks such a rule at this point is not appropriate.
24 There are a number of reasons set forth in its comments.

1 One of them, as Mr. Allegretti indicated, is that PSNH is
2 in the wholesale market. They may not be there in terms
3 of a large volume of transactions, but they are making
4 sales into the market. And, as competition increases,
5 they may at times find themselves there more regularly,
6 and that they would have information available to them
7 that might not be available to other participants.

8 In addition, you can say that you're
9 going to aggregate the data, but the reality is there, as
10 the Commission knows, there's a very low level of
11 competition at the retail level right now in the state.
12 And, so, if you've got periods when there's only one or
13 two suppliers, it may be possible to discern who's got
14 what load. And, so, you can call it "aggregated", but it
15 may be discernable as to -- the proprietary information
16 may be discernable.

17 And, finally, with regard to that
18 limited level of competition, and that's been an issue in
19 prior proceedings, I think anything that puts a new cost,
20 a new obstacle, a new administrative burden, even if it
21 isn't all that large, is something that particularly
22 smaller players will consider. And, I think New
23 Hampshire, at this point, should do everything it can to
24 make it easy to access this market and easy to participate

1 in it, and not risk, that if it doesn't file some report,
2 a competitive supplier is subject to fines, may be subject
3 to being disbarred from participating in this market, may
4 have a black mark against it that it has to report in
5 other jurisdictions as well. So, there was no indication
6 that there was any kind of substantial gain to be had from
7 this data. And, in fact, that the actual value of this is
8 quite speculative.

9 With regard to the Constellation's
10 proposal for an RFP, I think it is clear that there is a
11 significant difference from the prior proposal, because
12 the area of Commission concern in the prior proceeding
13 related to taking PSNH's generation, selling that to a
14 third party, the RFP winner, and then having it sold back
15 as part of an all-requirements arrangement. Constellation
16 understood what the Commission's concern was and tried to
17 come up with a new proposal that would eliminate that
18 component, and yet still deliver the same kinds of
19 benefits to customers. And, we believe that that's what
20 this does.

21 We are not -- Obviously, Constellation
22 would be very pleased to have the Commission approve such
23 a concept in this proceeding, but we're not realistically
24 expecting that. What we're asking is that the Commission

1 take the proposal seriously, open a separate proceeding,
2 and have a more thorough understanding and investigation
3 of what benefits can be derived from it. The current PSNH
4 process is not perfect either. And, we think that, to
5 simply stick with what's been done because that's what's
6 been done, people are comfortable with it, is not the
7 right approach. The reality is that not just many other
8 states, but this state have used the RFP process to meet
9 wholesale market purchases to meet requirements needs.
10 And, there must be some reason behind that. It isn't just
11 Mr. Allegretti's opinion, as he somewhat diminutively
12 said, it's the opinion of this Commission and other
13 commissions that an RFP process to provide wholesale
14 market power requirements of retail customers is a least
15 cost way to go and is in the public interest. And, we
16 think that, although the situation of PSNH owning some of
17 its own generation -- of owning its own generation to meet
18 some of its requirements is different in some respects,
19 not in all respects, but in some respects from what has
20 been done in other jurisdictions, it merits careful
21 examination and thought and should not just be discarded
22 lightly.

23 Mr. Allegretti testified at length about
24 the profit motive and how that can reduce costs. And, the

1 idea that having a profit and a business earning a profit
2 will simply make something more costly I think is
3 completely inconsistent with our country's economic model.
4 I'm not going to wave the flag on this, but, obviously, we
5 have a economic structure that believes that profit motive
6 tends to drive costs down. And, again, I think that that
7 should not just be lightly discarded and saying that
8 somehow the profit will be over and above the cost that
9 the regulated utility incurs. I think it's fairer to say
10 that the regulated utility, with no profit motive on the
11 power procurement side, will not drive as hard, people
12 will not stay as late at night, they won't work 24/7 to
13 drive those costs down, because they won't benefit from
14 it.

15 Similarly, I thought it was most
16 revealing that PSNH's witnesses described a process where
17 they go out and, over the course of the year, they lock in
18 segments of their power requirements, and they build a
19 portfolio, and that's locked in. And, they turn off the
20 lights and they go home at night, knowing that "I've got
21 my 100 percent set." That's not what an RFP respondent
22 would do. They would, even if they had entered into a
23 contract, as Mr. Allegretti said, they would be out there
24 saying two months later, on an hour by hour basis, "can I

1 do better?" That -- They use that to drive the costs
2 down. And, it's the knowledge that they have that process
3 available that enables them to bid less in the beginning.
4 Obviously, during the course of a contract, those savings
5 may be retained by the supplier to reduce a loss or
6 improve a profit. But the knowledge that they have that
7 expertise and can engage in that process on an hourly
8 basis enables them to bid a lower price to begin with.
9 And, when up against other very large national and
10 multi-national companies that are doing the same thing,
11 that profit margin gets squeezed. And, that's what Mr.
12 Allegretti is describing. It's a very powerful concept.
13 It's used in many states. It's used in this state.

14 The last thing I want to mention is on
15 the timing of an order, I don't want us to get too
16 concerned about that in two regards. First of all, again,
17 obviously, Constellation would love to have this process
18 in place as soon as possible. But, if that can't be done
19 with an order by April or May so that it is in place for a
20 2009 procurement, then maybe it's done at a later date.
21 But I don't think the Commission should decide "Well, we
22 can't get an order out by May, and therefore we shouldn't
23 even examine this."

24 Secondly, when Mr. Allegretti talked

1 about having an RFP response by November, in any given
2 year, for the next year's pricing, the Commission is
3 already used to, in Unitil and Grid, and other commissions
4 are used to, reacting quite rapidly to those responses to
5 RFPs. I don't think that presents a problem for getting
6 the costs determined for the following year. There may
7 need to be other minor changes that are made to the
8 current Energy Service rate review process. I mean, at
9 this point, it's hard to know exactly what those are. But
10 I just think it would be a mistake to say "this is how we
11 do it today, this is our regulatory process, this is
12 PSNH's process, and we can't fit this exactly into that
13 mold." It may be that other changes need to be made.

14 So, there are other things that I could
15 go into. My point is, I think that there is a lot of
16 merit to this proposal. It's been done very widely. And,
17 it shouldn't just be given the back of the hand. It
18 should be given a fair opportunity for full consideration
19 by this Commission, consistent with what it has done for
20 other utilities. Thank you.

21 CHAIRMAN GETZ: Thank you. Ms.
22 Hatfield.

23 MS. HATFIELD: Thank you, Mr. Chairman.
24 With respect to the reporting requirement, the OCA

1 originally didn't contemplate that it would require a
2 rulemaking, but I think we've been persuaded that, if this
3 is a new requirement for competitive suppliers, and it's a
4 rule of general application, that we would agree that it
5 would require a rulemaking process.

6 The OCA supports PSNH's updated Energy
7 Service filing that was made on November 21st.
8 Specifically, we support and appreciate the Company's
9 agreement to shift \$11.7 million in credits to the
10 Stranded Cost Recovery Charge. And, we also strongly
11 support the use of \$540,000 to supplement the Low Income
12 Home Energy Services -- excuse me, Home Energy Assistance
13 Energy Efficiency Program, where there is a great need
14 right now for energy efficiency services for low income
15 customers.

16 And, we also support the consideration
17 of Constellation's RFP proposal in a separate docket,
18 because we do think there is additional investigation and
19 analysis that needs to be done before such a change would
20 be implemented. Thank you.

21 CHAIRMAN GETZ: Thank you. Ms. Amidon.

22 MS. AMIDON: Thank you. Regarding the
23 reporting requirement, Staff just wants to note that this
24 issue originally occurred in the context of another Energy

1 Service docket. And, consequently, this docket sort of
2 inherited this issue. I think it's an important
3 consideration, because the Commission raised it in the
4 prior docket. However, you may determine that it is more
5 appropriate to deal with the reporting requirement in a
6 rulemaking, since it has general applicability to all
7 competitive energy suppliers.

8 Regarding the RFP, the Staff takes no
9 position, but we suggest that the Commission has three
10 options: You can state that you decided this issue in the
11 previous docket, DE 03-175, in Order Number 24,252, and
12 just dismiss Constellation's request to initiate an RFP
13 process and the procurement of PSNH's supply that's not
14 provided by its own generation. You can decide the issue
15 on the merits of this docket. Or, you can open a new
16 docket to consider the proposal and the context of all the
17 details and implications of such a mechanism and where it
18 can be further explored. But those are our three
19 suggestions to you.

20 Finally, though, at the heart of this
21 matter is the Energy Service Rate for 2008. With the
22 November 21st, 2007 filing, PSNH addressed Staff's
23 concerns regarding what should be included in the Energy
24 Service rate, what should be excluded from the Energy

1 Service rate, such as the money associated with the
2 mercury legislation expense, and what should be moved to
3 the SCRC. And, in addition, as we heard on the stand
4 today, PSNH agrees to do further explanation on their
5 process and thinking through power procurement for forced
6 outages, modeling short planned outages, and using the
7 weather-based load forecast. So, they're going to provide
8 us with that information. And, based on their agreement
9 to comply with those recommendations of Staff, we request
10 that the Commission approve the Energy Service Rate for
11 2008.

12 CHAIRMAN GETZ: Thank you. Mr. Eaton.

13 MR. EATON: Thank you, Mr. Chairman.

14 Yes, I will agree with the other commenters that the
15 November 21st filing actually reflects a settlement
16 agreement among the parties. We didn't file a written
17 settlement, but that the recomputation of the rate
18 included all the things that were the give-and-take that
19 were conducted during the technical sessions.

20 As far as the question the Chairman had
21 concerning the reporting requirements, I agree that, if
22 it's going to be of general application to all competitive
23 suppliers, it probably should be part of a rulemaking, and
24 all parties could have a chance to comment on it and have

1 notice of it.

2 I hazardous to suggest that a previous
3 decision of the Commission is wrong, but the way Mr.
4 Allegretti characterized it, they may have misconstrued
5 what was put forward in 2003. We think this is the same
6 proposal that was put forward in 2003, and, therefore, the
7 Commission doesn't need to do a new proceeding. We would
8 point the Commission to Page 12 of the testimony of Mr.
9 Allegretti and Mr. McLeish in docket 03-175, and also to
10 the transcript of December 3rd, 2003, Pages 137 to 138.
11 These are -- These describe a proposal that is exactly
12 like the proposal being supplied here, and would come back
13 every three or four years to rehash the same thing doesn't
14 seem to be a good use of the Commission's time.

15 We provide this service with zero profit
16 and with no risk premium. The risk premium that's
17 included in the RFP price would be paid for by customers.
18 Therefore, under either proposal, risk is shifted to
19 customers. Except PSNH is subject to a prudence risk, if
20 it mismanages its portfolio supply. We believe our
21 process is 100 percent transparent, with all of the
22 discovery and tech sessions and least cost planning
23 requirements that are imposed upon us. We have improved
24 the process over the years. It's not stagnant. We've

1 made it better. And, the suggestion that the actual cost
2 is not being recovered because of previous over recoveries
3 and under recoveries is not a strong argument, because, as
4 our witness has testified, that it's only about 3 percent
5 for the last two years that we've had any over or under
6 recoveries, which is very small.

7 The proposal includes more costs and
8 would be duplicated by every party that participated in
9 the RFP process. So, everyone concedes there's no way of
10 comparing what the future would be versus what was done.
11 Every party would have some sort of a risk premium,
12 everyone would build a profit into it. And, the
13 management of the portfolio, after the bid is accepted,
14 you must understand, is to maximize the profit of the
15 winning bidder. They have a fixed price. And, it's
16 certainly laudable that they're doing the best that they
17 can to minimize costs after that, and looking at it 8,760
18 hours of the year. But that year it's all on them.
19 They're trying to maximize their profit and not pass any
20 of those savings along to customers. If we don't act
21 prudently during the year, if we don't take advantage of
22 situations, we're subject to a prudence review and a
23 potential disallowance. So, saying that our people are
24 lazy, our people aren't as good as the Constellation

1 people, we take some offense to. And, we don't think we
2 need to go forward. We think we've done this twice. And,
3 we don't need to do it again. Thank you.

4 MR. CAMERINO: Mr. Chairman, could I
5 just note, from an evidentiary standpoint, Mr. Eaton
6 referred to the testimony in another proceeding, which
7 isn't in evidence in this case, wasn't presented --

8 CHAIRMAN GETZ: Well, let me handle it
9 this way. I don't want to get into another round of
10 arguments, --

11 MR. CAMERINO: I wasn't going to --

12 CHAIRMAN GETZ: -- about whether he's
13 right, that Mr. Allegretti's proposal is like what was in
14 03-175 or your argument that it's not like what was the
15 subject of 03-175. As petitioner, they get to go last.
16 We can take administrative notice of 03-175. We can
17 decide for ourselves whether it's like or unlike.

18 MR. CAMERINO: I understand that, Mr.
19 Chairman. My point was going to be that, if
20 administrative notice was going to be taken, that should
21 have occurred during the evidentiary portion, so that we
22 could have responded. All that Constellation can do is
23 react to what was in the Commission's order in that
24 docket. And, we think that the Commission should address

1 the proposal as it was described and ruled on in the
2 order, its strengths and infirmities, and not now refer to
3 material that was not in the evidentiary portion.

4 CHAIRMAN GETZ: Okay. And, I think
5 we're aware of the breadth of administrative notice, and
6 we will follow our rules in that regard. Is there
7 anything further?

8 (No verbal response)

9 CHAIRMAN GETZ: Okay. Hearing nothing,
10 we'll close the hearing and take the matter under
11 advisement. Thank you.

12 (Whereupon the hearing ended at 1:49
13 p.m.)

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