

THE STATE OF NEW HAMPSHIRE  
before the  
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

Public Service Company of New Hampshire  
Petition for Clarification and Interpretation of Commission Orders Regarding  
Hemphill Power and Light Company

Docket No. DE 07-122

PREPARED DIRECT TESTIMONY OF CARL N. VOGEL, III

**Q. Please state your name, business address and position.**

A. My name is Carl N. Vogel, III and I am employed by Public Service Company of New Hampshire at 780 North Commercial Street, in Manchester, NH. My position is Manager of the Supplemental Energy Sources Department.

**Q. Have you previously testified before the Commission?**

A. Yes, I testified in the Net Metering rulemaking docket DRM 98-068.

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

A. The purpose of my testimony is to explain the Settlement Agreement entered into between Public Service Company of New Hampshire ("PSNH" or "the Company") and Hemphill Power and Light Company ("Hemphill").

**Q. Please describe how the relationship between Hemphill and PSNH developed.**

A. Hemphill filed a petition for rate order with the New Hampshire Public Utilities Commission (the "Commission") pursuant to the Public Utility Regulatory

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	Witness <u>Carl N. Vogel, III</u>	

Policies Act of 1978 (“PURPA”) in January 1985. Hemphill’s petition contained a schedule of rates to be paid by PSNH for deliveries of power over a twenty year period. The rates were front-end loaded with specific prices to be paid each year for energy and capacity. The rates were to become effective in 1987 and conclude in 2006. The Commission approved the petition in Order No. 17,524 in April 1985. Hemphill began generating and selling power to PSNH on October 26, 1987.

**Q. What was the basis of the dispute between PSNH and Hemphill?**

A. The Parties disagreed over whether PSNH was required to pay Hemphill rates from the rate order schedule for the period it delivered power to PSNH from October 27, 2006 through October 26, 2007 which would have been the twentieth year of the rate order.

**Q. Why would there be a dispute between PSNH and Hemphill over payment of rates from the rate order schedule for the twentieth year of a twenty year rate order?**

A. Hemphill began operation under rate order rates on October 27, 1987 and started receiving 1988 rates, the second year of rates, from the rate order schedule as prescribed in the Commission’s Eighth Supplemental Order No. 17,104 of July 1984 according to PSNH’s interpretation of the Order. Hemphill received the next year of rate order schedule rates on each anniversary date and therefore had

received its twentieth year of rates during its nineteenth year of operation. As the rate order did not contain any rates beyond that twentieth year of rates, it was unclear whether PSNH had any further obligation for purchases under the rate order, and, if so, what rate to apply.

**Q. What was the basic position of each party?**

A. PSNH concluded that its rate order obligation was completed when the final year of rates from the rate order schedule was completed. Hemphill concluded that it was entitled to the final year of rates in the rate order schedule for a twentieth year.

**Q. Please describe what is contained in the Settlement Agreement.**

A. If the Commission approves the Settlement, PSNH will pay Hemphill three million five hundred thousand dollars (\$3,500,000). Although PSNH and Hemphill negotiated the settlement amount on a gross basis and not through calculations involving Hemphill's generation and rates, it is worth noting that the settlement amount is roughly half of the difference between (1) the amount PSNH paid to Hemphill for deliveries from October 27, 2006 through October 26, 2007 under the short-term avoided cost rate and (2) what PSNH would have paid for the same deliveries under the final year of rates in the rate order schedule.

As a pre-condition to PSNH's payment to Hemphill, the Commission must approve PSNH's recovery of this payment from its customers.

If the Commission approves both the settlement and PSNH's recovery of the settlement payment from its retail customers and no appeals have been taken, PSNH will make the payment, Hemphill and PSNH will jointly dismiss the action pending in the Superior Court, and this proceeding will be concluded.

**Q. How would PSNH propose that the settlement payment be collected from customers?**

A. PSNH proposes that the settlement payment be collected from customers over a one year period through the Default Energy Service rate.

**Q. Is this settlement in the public good?**

A. Yes. This settlement resolves all of the issues in this proceeding, the litigation in the Superior Court, and avoids potential jurisdictional disputes in the federal courts. I am told by my attorney that Hemphill and PSNH would be encouraged to settle this matter if the case were to be tried in another court; therefore, the Parties may have been back before the Commission to approve another settlement at a later time. The Parties would have expended additional costs for that litigation. In assessing risk, there is the possibility that Hemphill would prevail,

and PSNH would be required to pay the entire amount claimed, plus statutory interest.

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

**A. Yes.**