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January 21, 2011

Re: DE 10-160, Public Service Company of New Hampshire
Investigation into Effects of Customer Migration
Briefs

To the Parties:

The Commission opened the above-captioned docket to investigate the effects of customer migration from Public Service Company of New Hampshire's (PSNH) default energy service to competitive supply. Specifically, many of PSNH's large commercial and industrial customers have switched to competitive supply, resulting in PSNH's energy service costs being recovered from a smaller customer base, primarily residential and small commercial customers. At the close of the December 1, 2010 hearing in this matter, the Commission noted that the parties had agreed to file briefs to address the legal issues related to the various alternatives proposed in this docket. Rather than providing oral closing statements, the Commission stated that it would allow the parties to provide closing statements in those briefs and that it would issue a secretarial letter with further direction on issues to be addressed in the briefs.

The Commission has identified several issues to be addressed in legal briefs. In general, parties should address issues found in RSA 369-B and RSA 374-F pertaining to default service, generation ownership by PSNH and stranded costs. For example, RSA 369-B:3, IV(b)(1)(A) contains the requirement that until the sale of PSNH's fossil and hydro generation assets PSNH shall provide all default service from its generation assets and supplemental power purchases, if necessary. Also, RSA 374-F:3, XII governs the recovery of stranded costs under electric utility restructuring. Stranded costs are defined at RSA 374-F:2, IV. Pursuant to RSA 374-F:3, XII (d), entry and exit fees are not preferred recovery mechanisms.

Some parties have proposed a "stay-out" provision to be imposed on customers who migrate to competitive supply, which would result in those customers paying more for default service if they return to PSNH. Parties should address whether a stay-out provision is permissible under RSA 374-F, RSA 378:10 and any other applicable statutes. Likewise, there was inquiry about the possibility of providing a separate default service for the largest customers who have hourly interval metering and who choose a competitive supplier that might be based on dynamic marginal supply costs, i.e. real-time market prices. Parties should address whether such a default service option would be permissible under the law, including RSA 369-B, 374-F, 378:7-a, and 378:10. In addition, Parties should address whether there is any legal impediment to the implementation of a purchase of receivables (POR) program, which was suggested as a means of improving customer choice for residential and small business customers.

January 21, 2011

Page 2

PSNH has proposed the creation of a non-bypassable charge, consisting of certain fixed costs associated with its generation plants and certain purchased power obligations, to mitigate the cost of default service for those customers who continue to take default service from the Company. The Commission asks the parties to address whether costs to be recovered under PSNH's proposed non-bypassable charge would or should be considered stranded costs within the meaning of RSA 374-F:2, IV, whether a non-by-passable charge is an appropriate recovery mechanism pursuant to RSA 374-F and whether it is permissible under RSA 369-B:3, IV(b)(1)(A) and RSA 374-F.

The Commission is also interested in understanding whether any of the parties perceive legal barriers to requiring PSNH to bid all of its generation into the daily market and purchase all of its energy requirements through a request for proposal process similar to that used by Unitil Energy Systems, Inc. and Granite State Electric Company d/b/a National Grid. In addition, parties should address whether there are any legal impediments to the proposals (1) that PSNH issue a request for proposals to cover supplemental energy purchases (i.e., those needed to serve PSNH's default service load in excess of PSNH's generation), and (2) that there should be separate default service pricing for those customers returning to PSNH's energy service.

Among other proposals put forth was a proposal that PSNH divest its generation assets and issue requests for proposals to the market for its default service requirements. RSA 369-B:3-a states that "PSNH may divest its generation assets if the commission finds that it is in the economic interest of retail customers of PSNH to do so, and provides for the cost recovery of such divestiture." Briefs should address whether RSA 369-B:3-a allows the Commission to require PSNH to divest its generation assets and, if so, what particular procedures may be appropriate for such a proceeding.

With respect to each proposal, the Commission directs parties to identify any alternatives that could be implemented in the near term with a final order in this proceeding, as opposed to those that would require further investigation.

The issues identified above, including the specific statutes, should not be considered as limiting the parties' ability to address any other issues or statutes not specifically identified.

The deadline for legal briefs shall be February 9, 2011.

Sincerely,



Debra A. Howland
Executive Director

cc: Service list (electronic service only)