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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

June 28, 2010 - 1:37 p.m.
Concord, New Hampshire

NHPUC JUL19'10 PM12:44

RE: DE 10-160
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE:
Customer Migration.
(Prehearing conference)

PRESENT: Commissioner Clifton C. Below, Presiding
Commissioner Amy L. Ignatius

Sandy Deno, Clerk

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

Reptg. Retail Energy Supply Assn.:
Debbie C. Albrecht, Esq. (Murtha Cullina)

Reptg. Constellation Energy Commodities
Group, Inc. & Constellation NewEnergy:
Joseph E. Donovan, Esq.

Reptg. TransCanada:
Howard M. Moffett, Esq. (Orr & Reno)

Reptg. Conservation Law Foundation:
N. Jonathan Peress, Esq.

Reptg. Freedom Logistics, Halifax-American
Energy Company & Clean Power Development:
James T. Rodier, Esq.

COURT REPORTER: Steven E. Patnaude, LCR No. 52

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APPEARANCES: (C o n t i n u e d)

Reptg. Stonyfield Farm:
Kenneth A. Colburn

Reptg. Residential Ratepayers:
Meredith Hatfield, Esq., Consumer Advocate
Kenneth E. Traum, Asst. Consumer Advocate
Office of Consumer Advocate

Reptg. PUC Staff:
Suzanne G. Amidon, Esq.
Steven E. Mullen, Asst. Dir./Electric Div.

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P R O C E E D I N G

1
2 CMSR. BELOW: Good morning. I'll open
3 this prehearing conference in docket in DE 10-160, Public
4 Service Company of New Hampshire investigation into
5 effective customer migration on Energy Service rates.
6 And, note that on May 4th of this year Public Service
7 Company of New Hampshire filed a petition in Docket DE
8 09-180 requesting an adjustment to its Energy Service
9 rates effective with service rendered on and after July 1,
10 2010, and suggested that a portion of the Energy Service
11 costs should be removed from Energy Service rates and
12 covered through a non-bypassable rate charged to all
13 customers. The May 28th, 2010 order of notice in docket
14 DE 09-180 stated that the Commission would be opening a
15 separate proceeding to consider the issue of customer
16 migration on Energy Service rates for customers remaining
17 on PSNH Default Service.

18 In addition, in Order Number 25,061,
19 from December 31st of last year, in DE 09-180, the
20 Commission stated its intention to explore the interplay
21 of customer choice and migration issues with power
22 procurement options for PSNH. And, the purpose of this
23 proceeding is to pursue that investigation and
24 consideration.

{DE 10-160} [Prehearing conference] {06-28-10}

1 I will note for the record that we've
2 received the affidavit of publication. And, we can take
3 appearances.

4 MR. EATON: For Public Service Company
5 of New Hampshire, my name is Gerald M. Eaton. Good
6 afternoon.

7 CMSR. BELOW: Good afternoon.

8 MS. ALBRECHT: For Retail Energy Supply
9 Association, Debbie Albrecht.

10 MR. DONOVAN: On behalf of Constellation
11 Energy Commodities Group, Inc., and Constellation
12 NewEnergy, Joseph E. Donovan.

13 CMSR. BELOW: Good afternoon.

14 MR. MOFFETT: For TransCanada, Howard
15 Moffett, from Orr & Reno, but I should note that I'm
16 sitting in for my partner, Doug Patch.

17 CMSR. BELOW: Okay. Good afternoon.

18 MR. COLBURN: Kenneth Colburn, here for
19 Stonyfield Farm.

20 CMSR. BELOW: For Stonyfield Farm, okay.

21 MR. PERESS: Good afternoon. On behalf
22 of the Conservation Law Foundation, Jonathan Peress. And,
23 with me is Robert Barry, our summer intern.

24 CMSR. BELOW: Good afternoon.

1 MS. HATFIELD: Good afternoon,
2 Commissioners. Meredith Hatfield, for the Office of
3 Consumer Advocate, on behalf of residential ratepayers.
4 And, with me for the Office is Ken Traum.

5 CMSR. BELOW: Okay. Good afternoon.

6 MS. AMIDON: Good afternoon. Suzanne
7 Amidon, for Commission Staff. With me today is Steve
8 Mullen, who is the Assistant Director of the Electric
9 Division.

10 CMSR. BELOW: Good afternoon. We've
11 received Petitions for Intervention from those who've
12 stated appearances, but not Stonyfield Farm. Do you seek
13 to intervene?

14 MR. COLBURN: Mr. Chairman, I hope that
15 it's not necessary. I understand that the Business &
16 Industry Association, of which we're a member, has
17 requested intervention. Assuming that's granted, our
18 commercial interests would hopefully be represented by
19 them. And, our environmental and public health interests
20 will hopefully be represented by advocates. So, I just
21 would like to be on the service list and appear today. If
22 it is necessary to intervene, I hope you'll take this
23 appearance into account. Thank you.

24 CMSR. BELOW: Okay. And, I would note

1 also that we have Petitions for Intervention from the BIA,
2 Business & Industry Association, Freedom
3 Logistics/Halifax, and Clean Power Development, who are
4 not represented here at this time.

5 Let's go right, before we consider the
6 Petitions for Intervention, let's go right to a statement
7 of preliminary position, as well as the parties, if they
8 could address what they believe the appropriate scope of
9 the proceeding should be. Start with you, Mr. Eaton.

10 MR. EATON: Thank you, Commissioner. My
11 name is Gerald Eaton. I represent Public Service Company
12 of New Hampshire. And, it is our position that New
13 Hampshire has not arrived at a fully competitive market,
14 in that all customers truly have access to the competitive
15 market. Small commercial and residential customers have
16 not been served by competitive suppliers to date. These
17 customers take Default Service from Public Service of New
18 Hampshire. As large commercial and industrial customers
19 have migrated to competitive suppliers, the remaining
20 customers have taken a larger and larger share of fixed
21 costs incurred in the Default Service supply.

22 The restructuring principles provide
23 that, and I quote, "restructuring of the electric utility
24 industry should be implemented in a manner that benefits

1 all consumers equitably and does not benefit one customer
2 class to the detriment of another. Costs should be
3 shifted" -- "should not be shifted unfairly among
4 customers." And, that's from RSA 374-F:3, IV [VI?].

5 So, the initial determination the
6 Commission must make in this proceeding is whether
7 restructuring in New Hampshire and the competitive markets
8 benefit the large customers of PSNH to the detriment of
9 the smaller customers. And, are the costs of PSNH's
10 generation assets recovered through Default Service being
11 unfairly shifted between these two customer groups?

12 If the Commission determines that unfair
13 shifting of costs among customer classes has taken place,
14 the Commission must then determine "what, if anything,
15 should be done to remedy such cost shifting?" Stated
16 differently, the issue in this docket is to determine how
17 to make the Energy Service rate neutral to migration from
18 perspective -- from the perspective of non-migrating
19 customers.

20 This Commission has plenary ratemaking
21 powers. Nothing in the restructuring law quote -- nothing
22 in the restructuring law restricts "the Commission from
23 exercising its lawful authority under Title 34." And, the
24 cite to that is RSA 374-F:4, X. The Commission can order

1 other charges and services -- and service provisions or
2 take other actions which are necessary to implement the
3 restructuring that's consistent with restructuring
4 principles. And, that law is found in RSA 374-F:4,
5 VIII(a).

6 The Commission should establish
7 Transition and Default Service that's appropriate to the
8 particular circumstances of each jurisdictional utilities.
9 And, that's found at RSA 374-F:3, III(d). PSNH is
10 required by law to supply Default Service from its
11 generation assets and from supplemental sources. And,
12 that's found in RSA 369-B:3, IV(b)(1)(A). PSNH's Default
13 Service is unique, in that it retains -- it still retains
14 generation, which must be used for Default Service.

15 In this proceeding, PSNH intends to
16 present potential solutions to the issue of increasing
17 bills for non-migrating customers as a result of
18 migration. PSNH, however, is not wedded to any particular
19 solution. We believe there is a question of fairness
20 between customer classes, but we will not be supporting
21 any particular solution. The burden of going forward on
22 the issue of whether alternative power procurement
23 practices should be implemented should be placed on other
24 parties other than PSNH. PSNH's procurement practices

1 have been removed and approved by the Commission every
2 year since Transition Service went into effect. The
3 Commission has consistently found that PSNH's capacity and
4 energy practices are just and reasonable. And, the latest
5 cite to that is in docket DE 09-091, Order Number 25,060,
6 in the slip opinion at Page 15.

7 Furthermore, the Commission has
8 determined that it's up to any party advocating for an
9 alternative to PSNH's power supply procurements "to file a
10 fully detailed proposal on the implementation of a process
11 whereby PSNH would solicit supply for its power
12 requirements not supplied from its own resources." That's
13 in Docket Number DE 07-096, Order Number 24,814. These
14 detailed proposals should not be black boxes. They should
15 describe and quantify how the alternative procurement
16 process will reduce the Default Service rates so that the
17 migration is lessened and the fixed costs of generation
18 infrastructure that is available to all customers is
19 shared. Issues should include how competitive suppliers
20 hedge their offers and what profit margin is added to the
21 cost of the power and the hedge procured by the marketer.

22 In summary, PSNH stands ready to assist
23 the Commission in its determination of whether a solution
24 to the issue resulting from migration should be

1 implemented and whether it is in the customers' best
2 interest to modify PSNH's current procurement practices.
3 Thank you.

4 CMSR. BELOW: Thank you. Mr. Donovan.

5 MR. DONOVAN: Good afternoon. I think
6 we'll be joining shortly with the general discussion that
7 RESA will put forward. I would just note for the record,
8 Constellation is reviewing the submissions that have been
9 made in this proceeding. We have a long history of
10 involvement with the Commission in looking at the possible
11 procurement strategies and protocols. And, I anticipate
12 that we'll very well approach the Commission with some
13 suggestions. And, I believe I'll turn it over to my
14 friends from RESA, to give a more general description of
15 our -- and, I look forward to the interplay and getting
16 some feedback from the Company and from the Commission on
17 some possible alternatives.

18 CMSR. BELOW: Okay. Ms. Albrecht.

19 MS. ALBRECHT: "Albrecht", yes. Good
20 afternoon. I'm actually here on behalf of RESA, and in
21 the place of Robert Munnelly, which could not be here
22 today. We commend the Commission for opening this docket
23 to review the proposal of PSNH to address the continued
24 customer migration issue and competitive supply by

1 reallocating certain costs and imposing a non-bypassable
2 charge.

3 RESA opposes the proposal as an
4 unnecessary price increase for consumers and creating a
5 new impediment to the continued development of competition
6 in New Hampshire. The market is highlighting some of the
7 weaknesses in this one-of-a-kind way that PSNH has been
8 handling its electricity procurement. RESA would like to
9 work with the Commission and the parties to develop
10 alternatives that are better for consumers and better for
11 competition. And, we will be happy to answer any
12 questions that the Commissioners may have.

13 CMSR. BELOW: Okay. Thank you.
14 Mr. Moffett.

15 MR. MOFFETT: Thank you, Commissioners.
16 TransCanada was a party to DE 90 -- excuse me, DE 09-180,
17 in which the Commission suggested that it would separate
18 out these two issues and hold a separate docket. So,
19 we're here in follow-up to that discussion in the earlier
20 docket.

21 Generally speaking, TransCanada is a
22 competitive generator. And, it takes the view that the
23 proposal to create a non-bypassable charge, that would be
24 applied to all PSNH customers, to recover Energy Service

1 costs is essentially in conflict with the restructuring
2 statutes, RSA 374-F. We do think that there is a
3 fundamental issue about whether that's consistent with the
4 restructuring statutes. And, we're looking forward to the
5 discussion about that in this docket.

6 In addition, I think TransCanada
7 supports the notion that procurement by regulated
8 utilities should be as transparent as possible. And, so,
9 we expect to be involved in a discussion on the
10 procurement issue as well.

11 CMSR. BELOW: Okay. Mr. Colburn, did
12 you want to say any -- make an initial -- make a
13 statement, though you're not seeking intervention?

14 MR. COLBURN: Thank you, Mr. Chairman.
15 I would suggest that Stonyfield, as a migrated, in large
16 measure at least, migrated company shares in large measure
17 the approaches that -- the positions of RESA and
18 TransCanada expressed here.

19 The only other concern that occurred to
20 us as a result of reading the prehearing conference order
21 pertains to the power generated by PSNH. And, it didn't
22 appear that that would be covered here, perhaps it's
23 covered in other dockets. But, clearly, that can also be
24 a driver for migration. And, to the extent that that

1 dynamic continues, we would have a concern about that,
2 particularly to the extent that it involves a new
3 non-bypassable charge.

4 CMSR. BELOW: Okay. Mr. Peress.

5 MR. PERESS: Thank you, Mr. Chair.

6 State policy, as embodied in the restructuring statutes,
7 clearly makes the link between electric supply, electric
8 suppliers, and environmental impacts. Under RSA 374-F:3,
9 the state points to a specific objective in electric
10 utility competition and restructuring to achieve and to
11 encourage environmental benefit. This docket raises
12 important issues that relate to those questions and to the
13 environmental advocacy of supply decisions and
14 opportunities for customers to have choice, in order to
15 address both economic and environmental consequences from
16 their supply.

17 Among the issues raised in the order of
18 notice are "whether alternative procurement strategies
19 should be implemented?" The order of notice also raises
20 the question of whether PSNH's rate structure may be
21 designed in a manner that potentially constrains
22 opportunities for customers to migrate to lower cost and
23 cleaner suppliers.

24 PSNH points out, I believe correctly,

1 that past decisions of this Commission have determined
2 that their capacity and energy procurement practices are
3 just and reasonable. This is a dynamic market, the market
4 has changed quite significantly. At the present time,
5 from at least 2009 and going forward, there are
6 opportunities to procure electric supplies that have lower
7 environmental impacts, that have lower emissions
8 associated with that supply, and that cost -- cost
9 ratepayers less money than the power that PSNH is
10 supplying.

11 We don't have a position, *per se*, on
12 this docket. But we want to be a part of any
13 deliberations with respect to how PSNH might and how the
14 Commission might choose to alter the current rate
15 structure as it might impact those objectives and
16 considerations.

17 CMSR. BELOW: Okay. Ms. Hatfield.

18 MS. HATFIELD: Thank you, Commissioner
19 Below. As the Commission knows, this docket was -- or,
20 the idea for this docket was first discussed in DE 09-180
21 last year. And, really, the original issue was raised in
22 PSNH Witness Baumann's testimony that was filed back on
23 September 24th of last year. And, in that testimony, Mr.
24 Baumann stated that the Energy Service rate included in

1 that filing was approximately 5 percent higher than it
2 would have been absent migration. And, he went on to say
3 that certain customers that are unable to switch to a
4 third party supply, predominantly residential customers,
5 are now shouldering additional fixed costs, while
6 customers who have switched have been afforded the
7 opportunity to choose lower rates from third party
8 suppliers.

9 We thank the Commission for opening this
10 docket. You may recall that, in 09-180, our office
11 thought we probably didn't have time to address all of the
12 issues in that particular docket, so we are pleased to be
13 here today. And, we're certainly concerned about the fact
14 that PSNH has calculated that residential and small
15 commercial customers, who really don't have an opportunity
16 to choose, are shouldering additional costs due to
17 migration.

18 In terms of the scope of the docket, we
19 believe that the Commission's prehearing conference order
20 has appropriately raised the issues that we should
21 consider in this docket, especially the interplay of
22 PSNH's current supplemental power purchase practices with
23 migration. And, also, the question of whether there are
24 alternative procurement strategies that should be

1 investigated and possibly implemented. And, the
2 Commission may recall, during the hearing in 09-180,
3 TransCanada's witness, Mr. Hachey, actually shared some
4 information about TransCanada's practices and his opinions
5 in that area. And, I'm hopeful that, with the
6 participation of this range of intervenors, we can get
7 some more information about how other companies manage
8 those issues.

9 One other issue that the Commission
10 raises in the prehearing conference order is the targeted
11 use of technology-based initiatives and/or targeted rate
12 mechanisms. The OCA would be happy to investigate those
13 areas, but we would certainly appreciate more guidance
14 from the Commission on what you had in mind in that area.
15 Because we've been thinking about it, and it's not readily
16 apparent to us what the Commission has in mind. But,
17 otherwise, we think that the scope outlined in the
18 prehearing conference order is appropriate. And, we will
19 work with the parties and the Staff and the Company to
20 investigate the issues that you direct us to. Thank you.

21 CMSR. BELOW: Okay. Before proceeding,
22 I guess I would note that, in our Order 25,061, from
23 December 31st of last year, in the last paragraph we
24 commented that "we [weren't] adopting TransCanada's

1 recommendation that PSNH be required to employ an RFP for
2 power purchases." But we stated "Nonetheless, we intend
3 to explore the interplay of customer choice and migration
4 issues with power procurement options for PSNH, including
5 current practices, competitive procurement through RFPs,
6 purchasing through the spot market, or other market based
7 options." We also stated that "We intend to pursue the
8 issues identified in Docket Number DE 06-061, in Order
9 24,819 (January 22nd, 2008) regarding time-of-use rates
10 and advanced metering infrastructure, [referring to] smart
11 metering, and their possible impact on load and
12 procurement options. We will develop these issues and a
13 process to consider them in greater detail in a subsequent
14 order in a separate docket."

15 So, in a sense, I think the reference to
16 "targeted use of technology-based initiatives or targeted
17 rate mechanisms" might encompass that issue. I think, in
18 putting together our order of notice, and drawing
19 attention to the question of scope, appropriate scope of
20 the proceeding, I think we have some concern that that
21 might be -- taking on those issues might be too broad of a
22 scope for the purposes of this docket, on the one hand.
23 On the other hand, it's possible that there may be some
24 interplay of different rate mechanisms, such as

1 time-of-use rates, that may have some bearing on this
2 question. So, I think we're throwing that out, as much as
3 trying to steer the scope ourselves, as wanting to hear
4 from the parties what the scope should be. So, I think,
5 when we're done, if people want to add comments on that,
6 I'll allow a second go-around. But I think that's a
7 question as to what we, you know, really should or can
8 take on in this particular investigation.

9 I notice that Mr. Rodier has joined us.
10 And, he represents two parties that have sought Petitions
11 for Intervention. So, you can make your appearance now.
12 And, we're also taking a preliminary statement from the
13 parties and comments on the appropriate scope of the
14 proceeding.

15 MR. RODIER: Thanks. My name is Jim
16 Rodier. And, I'm very sorry to be late, so I apologize.
17 With regard to, I hope it's okay, I had put in a joint
18 Petition for Intervention for Freedom Logistics, also
19 known as "Freedom Energy Logistics, and HAEC,
20 Halifax-American Energy Company. They are jointly owned
21 and operated in all respects, their positions are going to
22 be same, would be exactly the same. If there's any
23 testimony, the testimony would be on behalf of both
24 companies. So, obviously, if they could be allowed to

1 intervene jointly or, if it's better, it sounds better or
2 works better, that they be allowed to intervene
3 individually, that would be fine as well.

4 With regard to FL and HAEC, they're more
5 concerned about the customer migration issue. In the
6 order of notice, it mentioned that, and this is a matter
7 that we've gone through more than a few times in recent
8 years, when the price of purchased power goes down and
9 it's less than the average cost, then you have all this
10 migration. And, the last time around the issue first
11 arose about "well, what's the effect of this? Are we
12 stranding some fixed costs here, that could potentially
13 have to be paid by a smaller and smaller group of small
14 customers?"

15 But I would also point out, over the
16 years we've also tried to make the case, I have anyway
17 through cross-examination that, when the customers go --
18 when the customers go back, the customers go back when the
19 cost of purchased power is higher than the average cost.
20 Now, when that happens, they also increase the rates for
21 the smaller customers. So, we have -- it seems somewhat
22 paradoxical, when they leave, they increase costs for
23 smaller customers, and when they go back, they increase
24 costs for smaller customers, perhaps for difference

1 reasons.

2 But I do think -- I don't think it's
3 quite possible that both of those situations can be true.
4 I think we have expert testimony that they both are true.
5 But, I don't know. I'm just saying, as far as the scope
6 is concerned, it would be good to finally come to grips,
7 are these truly independent or do they offset one another
8 to some extent or what is the story?

9 The only other comment I have on the
10 migration issue is, in looking at this in -- as to whether
11 or not this is going to get to be a serious problem or no
12 problem at all, we have to have a baseline case. And,
13 what drives customer migration, of course, as we know, is
14 the relationship between the average cost Default Service
15 rate and the cost of purchased power. Begs the question,
16 "where is the Default Service rate going over the next
17 couple of years?" There's been a number of efforts in a
18 number of dockets to try to get a handle on that. The
19 last time we were here, the -- PSNH's position was "Oh,
20 no. We can't get into what's the effect of the scrubber
21 coming into service going to be on the Default Service
22 rate, because that's beyond this current period that we're
23 in", or something like that.

24 So, I just want to suggest that, you

1 know, two, three years out, we could be looking at
2 something that is very substantial, that really drives
3 migration. And, in coming up with any decisions or
4 strategies or tactics, we ought to know what is looming
5 out there, if anything.

6 Moving on to CPD. CPD's interest,
7 obviously, is on the purchased power. And, rest assured,
8 CPD does not intend to litigate in this proceeding
9 anything that has to do with, in particular, the complaint
10 proceeding, 09-067. It's going to be much more generic
11 than that. I do want to point out a couple things. PSNH
12 has said very, very clearly, they got no obligation to
13 purchase electricity from anybody or to even consider
14 every proposal that comes before them. No obligation to
15 do that whatsoever. I think they would concede that after
16 the fact, down the road, a few years later, the Commission
17 can do a prudence review. But it raises the -- it raises
18 the question of what authority the Commission would have
19 to tell the Company what methods to use to procure its
20 power. When they have said "there is no state law that
21 requires us to issue an RFP or do it in a least cost
22 manner or anything else." The Commission may recall the
23 Company compared it to "buying a line truck." "Hey, when
24 we go to buy a line truck, we don't put out an RFP. We

1 buy a line truck. We use good business judgment. That's
2 how we do it, and that's the way we want to keep on doing
3 it."

4 So, my only suggestion is that, if we're
5 going to get into a situation here where we try to
6 prescribe procedures that must be followed, I think there
7 might be, I don't know, sure seems to me there might be a
8 basic issue of law here as what the PUC's authority is.
9 Thank you very much.

10 CMSR. BELOW: Okay. Thank you. Ms.
11 Amidon.

12 MS. AMIDON: Thank you. We agree with
13 the scope of issues that's identified in the Commission's
14 order of notice. Particularly, "what are the methods that
15 exist, if any, to address the effects of customer
16 migration on the small commercial and residential
17 customers who remain on Default Service with PSNH?" So,
18 we are -- we think that that issue should be looked at,
19 whether there are alternate procurement strategies or
20 other mechanisms which can be used to address that issue.
21 And, welcome the Commission's determination on the scope
22 of this proceeding.

23 And, just by way of further information,
24 we don't plan to have a technical session following this

1 prehearing conference, because it will be -- the scope of
2 the proceeding will help us to determine what kind of
3 schedule we need, in terms of discovery, technical
4 sessions, witness testimony, et cetera. So, at this
5 point, this is what the Staff is considering the
6 Commission's articulation of scope on this to be the
7 direction to us to be able to develop a procedural
8 schedule.

9 CMSR. BELOW: I did say, after my
10 remarks in response to the Consumer Advocate, that anybody
11 who wanted to make a second comment on the scope could do
12 so. Did anybody want to add anything on that question of
13 scope?

14 (No verbal response)

15 CMSR. BELOW: Seeing nothing, we'll turn
16 to the Petitions for Intervention. Are there any
17 objections to the Petitions for Intervention? Mr. Eaton.

18 MR. EATON: We have an objection to
19 Clean Power Development's Petition to Intervene, in that
20 we believe they're looking for a second bite of the apple
21 in this proceeding. That they're essentially arguing the
22 same basic issues that they have raised in docket DE
23 09-067. Certainly, whether the CPD will also contend, as
24 a matter of law, that PSNH has a legal obligation to give

1 due consideration to each and every proposal from a power
2 supplier.

3 So, the Commission can do one of several
4 things. They can suspend further action in the complaint
5 in DE 09-067, pending the results of this docket, or, in
6 the alternative, deny CPD intervention in this docket as
7 duplicative of the existing docket.

8 We have no objections to any other
9 intervention requests.

10 CMSR. BELOW: Mr. Rodier.

11 MR. RODIER: Well, you know, I
12 anticipated that might come up. I guess all I would say
13 is that, you know, CPD certainly understands the
14 situation. Does not want to do anything that's repetitive
15 or, as I said, I think the Commission has shown in the
16 past it's certainly very capable, and I have filed a
17 number of motions in the past of various things, the
18 Commission just says, you know, a lot of them are just
19 "no", sometimes they ask the Commission, you can certainly
20 handle this. In the way we've tried to comport ourselves
21 is, you know, during the hearing, if the Commission says,
22 you know, "why don't we, I think we've heard enough, why
23 don't we just move on", and we try to just gracefully move
24 on.

1 So, I will keep Mr. Eaton's words
2 certainly in mind. But I don't -- I do think that there
3 is the issues that CPD have raised in another proceeding
4 are going to be very important here. And, therefore, what
5 could happen here could substantially affect its -- or
6 impact its position.

7 So, you know, we'd like to be full
8 intervenors. But we will certainly accommodate any
9 suggestions or orders from the Commission or whatever they
10 might be, to make sure that the proceeding is conducted in
11 an orderly manner. Thank you.

12 (Cmsr. Below and Cmsr. Ignatius
13 conferring.)

14 CMSR. BELOW: I think that we'll address
15 Mr. Eaton's concern with regard to possible duplication
16 with the complaint proceeding when we issue a more
17 definitive scope and procedural schedule. And, in the
18 meantime, I believe that all of the petitioners for
19 intervention have demonstrated rights, duties, privileges,
20 immunities or other substantial interests that may be
21 affected by this proceeding, and we will grant the
22 Petitions for Intervention.

23 I think, in light of the number of
24 people who have gathered, which at this point includes all

1 of the Petitions for Intervention, except the BIA, are
2 representatives of all the intervenors, I think it might
3 be appropriate to try to proceed with some technical
4 session at this point, within the presumption of the scope
5 being what's described in the order of notice, and see
6 where you can get in terms of a possible suggested
7 procedural schedule. Unless there's some other conflict
8 or reason not to do that at this time? Ms. Amidon, is
9 there?

10 MS. AMIDON: No. I mean, we take
11 direction from the Bench, obviously. I just wanted to
12 present that to you at this point, absent, you know, the
13 order of notice asked for comments on scope. My
14 assumption, and perhaps was wrong, was that there would
15 then be a determination on scope, and then we could decide
16 how to proceed. But I do take direction from the Bench,
17 and I'd be happy to proceed with a technical session at
18 this point and see what we can get done.

19 CMSR. BELOW: I didn't really hear
20 anything that was calling for a substantial -- any
21 significant broadening ordinarily from the scope as
22 described. I will take the lack of comment on what was
23 issued, raised in the previous order about time-of-use
24 rates and things like that as not being something that

1 will be really a focus in this proceeding. It could come
2 up tangentially, if that might be some targeted use of
3 those kinds of mechanisms might have a role, and certainly
4 we'd consider that. But I don't think at this point we
5 anticipated going full bore in terms of looking at
6 advanced metering infrastructure and rate structure in
7 that regard, but still would entertain that, if that was
8 something that might address an issue to some degree,
9 particularly for large customers, who might already have
10 the technological capability to take advantage of
11 real-time rates or things of that sort.

12 So -- yes?

13 CMSR. IGNATIUS: If I can add also to
14 activity that may be possible this afternoon. People have
15 traveled, and some have come here with experience from
16 other jurisdictions, would be to encourage people to
17 explore mechanisms that may be in place in other
18 jurisdictions addressing the same issue. I can't imagine
19 we're the only state that's been looking at this and
20 facing these issues. And, to the extent that any of the
21 participants here have experience with other mechanisms
22 and would have any information that would be interesting
23 for everyone to explore in New Hampshire, I think that
24 that would be valuable. So, even if there's not a final

1 development for a proposal schedule, pending other
2 clarification, if that's an issue, there are certainly
3 other things that people may be able to help in developing
4 the record of mechanisms that have been valuable to
5 utilities facing significant customer migration.

6 MS. AMIDON: Thank you.

7 CMSR. BELOW: And, I guess I have
8 another question of Mr. Eaton. I think, in your recent
9 filings, and some of the other utilities, I noticed a
10 recent sort of uptick in customer choice amongst -- at the
11 residential level. In the past, there was very little,
12 but there seems to be a bit more now. And, I just
13 wondered if you've noticed that same trend? I think it's
14 still insignificant in terms of percentage of load, it
15 doesn't show up even as one percent. But, if you have any
16 observations or insight as to what might be going on
17 there?

18 MR. EATON: I think you're right,
19 Mr. Commissioner. There has been more interest. There is
20 a Renewable Default Service Option, which is a choice that
21 customers take, but they remain on Default Service. But,
22 yes, more residential customers are exploring these
23 options. But, I think, much like the large customers,
24 it's a matter of price. And, I don't know if competitive

1 suppliers can provide a competitive price to Energy
2 Service at this time.

3 One thing I would note, which I don't
4 know if we'll agree on in a technical session, is we've
5 raised the issue of the burden of going forward, at least
6 with respect to alternative procurement strategies. Our
7 procurement strategy to date has been reviewed by the
8 Commission in these -- in the reconciliation dockets for
9 several years. And, in a case a few years ago, when
10 Constellation provided some testimony about it, again, it
11 was not fully addressed, and the Commission clearly put
12 the burden of going forward on Constellation in that case.
13 And, I would say that it should be adopted here in this,
14 that, if there's going to be an alternative advocated,
15 that they ought to go forward and present that and be
16 subject to cross-examination and a record that the
17 Commission can decide. Because it's a big step to abandon
18 what we've been doing so far, and it may be hard to go
19 back. So, the Commission is going to have to be very
20 clear that this is the better way to approach it. And, we
21 think it's up to those parties to give a detailed
22 presentation of what they think the alternative ought to
23 be. And, I think, among the different parties here, you
24 may see several alternatives being presented. But it

1 shouldn't be a simple -- a blanket statement that says "a
2 bidding process always produces the lowest rate." Well,
3 you have to compare that to a procurement strategy that
4 has no profit added into it, because PSNH doesn't add on
5 any extra cost, but merely recovers its cost of
6 procurement with its own employees and the costs that they
7 are able to procure in the market. So, it will be helpful
8 if the Commission were to make that decision on scoping
9 before -- before we could decide on when testimony is
10 filed and who files first.

11 CMSR. BELOW: Okay. Well, we'll
12 consider that. If there's -- are there any other
13 procedural matters or any other comments before we close
14 the prehearing conference?

15 (No verbal response)

16 CMSR. BELOW: Not hearing any, we'll do
17 that. And, we'll await a recommendation of the parties,
18 if you are able to come up with one as a result of your
19 technical session. Thank you.

20 (Whereupon the prehearing conference
21 ended at 2:20 p.m. and a technical
22 session was held thereafter.)
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