

**THE STATE OF NEW HAMPSHIRE
BEFORE THE PUBLIC UTILITIES COMMISSION**

Docket No. DE 10-261

PUBLIC SERVICE OF NEW HAMPSHIRE

2010 Least Cost Integrated Resource Plan

**CONSERVATION LAW FOUNDATION'S OBJECTION
TO PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE'S MOTION TO STRIKE
CLF'S NOVEMBER 29, 2012 SUPPLEMENTAL FILING**

The Conservation Law Foundation ("CLF") hereby objects to the Motion to Strike the November 29, 2012 Supplemental Filing of Conservation Law Foundation. In support of this objection, CLF states the following:

1. CLF submitted its November 29, 2012 Supplemental Filing in order to address both new issues that are relevant to the adequacy of Public Service Company of New Hampshire's ("PSNH") least cost integrated resource planning, as well as new information which CLF did not have at the time of the hearing in this proceeding: specifically, the adoption of regulations by the Massachusetts Department of Energy Resources that will materially impact the economics of Schiller Station and potentially PSNH's ratepayers. This information bears on the wisdom of PSNH investments in, and continued operation of, Schiller Station now and in the future, not merely after the last of the regulations take effect in 2016.

2. In PSNH's Motion to Strike, the company essentially acknowledges that the new regulations are relevant to its least cost planning and more importantly, PSNH unabashedly admits that it has been more than two years since it last filed a least cost integrated resource plan ("LCIRP") and therefore is in violation of the requirements of RSA 378:38.

3. According to PSNH (at pp. 4-5, par. 7), “the regulations [] were adopted in August 2012, after the close of the record in this case and two years after the filing of the 2010 LCIRP.” The Motion to Strike also states (at p. 3, par. 4) that “[t]he adequacy of PSNH’s 2010 LCIRP, *which was filed on September 30, 2010*, will not be affected [by] matters that have taken place *more than two years after the date of that filing []*” (emphasis added).

4. RSA 378:39 required PSNH to file a new LCIRP before September 30, 2012 by mandating that “[] each electric utility shall file a least cost integrated resource plan with the commission at least biennially.” The General Court could not be clearer regarding the time in which PSNH was required to file an LCIRP *within two years of the date when it previously filed one*. The use of the term “shall” in the statute emphasizes that PSNH is *directed* to file an LCIRP at least every two years. *State v. Johanson*, 156 N.H. 148, 151 (2007); *City of Rochester v. Corpening*, 153 N.H. 571, 574 (2006).

5. This mandate binds not only PSNH, but also the Commission (in the absence of an expressed waiver under RSA 378:38-a). *See Appeal of Pub. Serv. Co.*, 122 N.H. 1062, 1066 (1982) (“the authority of the PUC [] is limited to that specifically delegated or fairly implied by the legislature and may not be derived from other generalized powers of supervision”).¹

6. While PSNH cites in its Motion to Strike a number of Commission rules, there is no rule that addresses the manner in which matters germane to least cost integrated resource planning for a utility are to be addressed *after* the utility fails to comply with the statutory mandate for it to file an IRP.

7. CLF submitted the Supplemental Filing to ensure consideration by the Commission of developments relevant to the adequacy of PSNH’s least cost integrated resource

¹ While not necessarily relevant to the instant proceeding, PSNH’s failure to submit a timely LCIRP also precludes the Commission from approving an increase in rates charged by PSNH. RSA 378:40.

planning—to wit, the promulgation of regulations which will likely have the effect of precluding PSNH from qualifying for Massachusetts Renewable Energy Credits that have in prior years provided \$15 million or more in revenues attributable to Schiller Station. In other words, CLF desires to ensure the integrity of PSNH's planning and the Commission's review. CLF does agree with the primary point PSNH makes in its Motion to Strike—that it has been more than two years since PSNH last submitted an LCIRP.

WHEREFORE, CLF respectfully requests that the Commission:

- A. Deny PSNH's Motion to Strike the November 29, 2012 Supplemental Filing of Conservation Law Foundation; and
- B. Grant such further relief as it deems appropriate.

Respectfully submitted,

CONSERVATION LAW FOUNDATION

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CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of December 2012, a copy of the foregoing Objection was sent electronically to the service list.



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