

**STATE OF NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION  
INTER-DEPARTMENT MEMORANDUM**

Date: October 19, 2011

**TO:** Commissioners  
**FROM:** F. Anne Ross, Hearing Examiner  
**RE:** DE 11-215 Public Service Company of New Hampshire  
Energy Service Rate for 2012



**HEARING EXAMINER'S REPORT**

At your request, I presided over the October 17, 2011 prehearing conference in the above referenced case.

On September 23, 2011 PSNH filed an estimate of its default energy service (ES) rate for 2012 with a proposed effective date of January 1, 2012 at a rate of 8.39 cents per kWh. On October 14, 2011 PSNH filed an update of the ES rate including estimated costs of the wet flue gas desulfurization system (Scrubber Project) at Merrimack Station and adjusted the ES rate to 9.57 cents per kWh. PSNH claimed that the Scrubber Project began operation on September 28, 2011 and was used and useful as of that date. PSNH proposed to further update the ES rate based on more current forward market prices close to the date of the final hearing in this matter.

OCA noted its participation in this docket on October 12, 2011 and Conservation Law Foundation (CLF) petitioned for intervention on October 14, 2011.

On October 17, 2011 PSNH filed an objection to CLF's intervention request.

**Appearances**

Gerald M. Eaton for PSNH  
Sarah B. Knowlton for PSNH  
Meredith A. Hatfield for Office of Consumer Advocate  
N. Jonathan Peress for CLF  
Suzanne G. Amidon for Commission Staff

**Intervention Requests**

CLF petitioned to intervene claiming it has over 3000 members; 350 members living in New Hampshire; and approximately 150 members in the PSNH service territory. CLF claimed that its

interests in this docket are not solely environmental but also concern the costs resulting from the rates proposed for ES. CLF also stated that it did not intend to challenge PSNH's choice of resources in this docket and that its participation would not delay the conduct of the proceeding. CLF requested permission to reply to PSNH's objection to its intervention.

### **Objections to Intervention**

PSNH objected to CLF's intervention claiming that CLF had not demonstrated that its rights and privileges will be affected by this proceeding. PSNH further asserted that CLF could not assert any injury in fact resulting from the 9.57 cent per kWh rate or any other rate. In addition PSNH claimed that CLF's interests in this docket are beyond the proper scope of the docket.

OCA supported CLF's request for intervention and asked that OCA be permitted to respond to PSNH's objection to CLF's intervention request.

Staff took no position on CLF's request.

### **Initial Positions**

PSNH reiterated its request for ES rates and pointed out that the ES rate is completely reconcilable. As a result, PSNH stated that it is not appropriate to consider questions of prudence in this docket. PSNH recommended that this short proceeding should set the estimated ES rate for 2012, with a longer proceeding dealing with the prudence of the Scrubber Project costs to be opened and combined with the ES reconciliation docket in 2012.

OCA did not have a position on the proposed ES rates at this early stage, however, Ms. Hatfield expressed concern over the difference in rates between the ES rate of 9.57 cents per kWh and the alternative default service rate proposed in docket DE 11-216 of 7.86 cents per kWh. Further, the OCA suggested that the Commission should confer with the Department of Environmental Services on the status of permitting for the Scrubber Project before deciding that the project is used and useful for ratemaking purposes.

CLF took no position on the proposed ES rates at this early stage of the proceeding and suggested that a longer proceeding would be needed to determine whether the costs of the Scrubber Project were prudent and whether they should be included in ES rates. CLF suggested that the prudence inquiry could take place in the ES reconciliation docket. CLF also asserted that the Commission should examine whether the Scrubber Project is actually in service as claimed by PSNH.

Staff took no position on the initial filings and indicated that it would be conducting discovery on the ES rates.

### **Technical Session**

As reported by Staff, by letter of October 19, 2011 the parties met in a technical session following the prehearing conference and agreed upon a proposed procedural schedule.

## Recommendations

I recommend that CLF be granted intervention.

I recommend that the Commission deny the requests by CLF and OCA to file replies to PSNH's objection and deny PSNH's request to respond to CLF's response. If the Commission wishes to allow such responses the parties have agreed to file written responses by close of business on October 24, 2011.

I recommend that the Commission approve the proposed procedural schedule.

By  \_\_\_\_\_  
F. Anne Ross, Hearing Examiner