

DL 11-250

LAW OFFICES
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January 23, 2014

Debra A. Howland
Executive Director and Secretary
Public Utilities Commission
21 South Fruit Street
Concord, NH 03301-2429

Via email

Re: DE 11-250, Investigation of PSNH's Installation of Scrubber Technology at Merrimack Station

Dear Secretary Howland:

On October 8, 2013, I wrote the Public Utilities Commission (PUC) regarding my concern that the interveners in the captioned docket had not examined the exact project destination of the \$422,000,000 Public Service Company of New Hampshire (PSNH) claims was spent on the scrubber. My concern is that the substantial increase in costs of the scrubber project are attributable to plant life extension projects, including generation upgrades, that were not required by RSA 125-O.

As noted in my October 8, 2013, letter my comments are based on my experience as an attorney of record in NHDES-Air Resources Council (NHDES-ARC) and PUC dockets.

In the dockets in which I was an attorney of record, PSNH prevented discovery of the engineering details of the project and whether all the funds spent went to the scrubber project.

My comments are submitted pursuant to Puc 203.18 as a PSNH ratepayer.

In the captioned docket, the only testimony of record regarding the actual project destination of the \$422,000,000 has been submitted by Jacobs Consultancy (Jacobs). Jacobs also submitted reports, both interim and final. Commission staff, via Suzanne Amidon, Staff Attorney, provided the

Commission with the “Final Report” of Jacobs Consultancy on September 12, 2012. The Final Report, different than the report made available to the public, was marked “CONFIDENTIAL”.

The Jacob’s reports and testimony are based on Data Requests submitted by Jacobs to PSNH. The data received by Jacobs is secret, not available to the public, the interveners or PUC staff. This secrecy is a repeat of the pattern that frustrated discovery in the litigation in which I was an attorney of record.

The data secrecy is unacceptable. The data secrecy makes it impossible to verify the Jacob’s facts and conclusions. The data secrecy makes it impossible to allow Commission enquiry into the veracity of the testimony. The data secrecy makes it impossible to conduct cross-examination of the testimony.

The data secrecy makes it impossible for the public, and rate payers, to be confident that the prudence of the \$422,000,000 has been properly examined.

I urge the Commission to reject the Jacob’s testimony and reports. I further urge the commission to postpone the hearing on the merits of this docket until a complete investigation of the project funds destination has been conducted with full discovery, conducted in an open, transparent manner. The discovery should be guided by an independent power plant professional prepared to offer testimony at the hearing on the merits.

Respectfully submitted,

Arthur B. Cunningham

cc: Honorable David Borden, Chairman
Electric Utility Restructuring Committee
Legislative Office Building
Concord, New Hampshire 03301

Service list