

**ATTACHMENT A**



February 14, 2014

Robert A. Bersak  
Assistant Secretary  
and Chief Regulatory Counsel  
Public Service Company of New Hampshire  
780 N. Commercial Street, Manchester, NH 03101  
Manchester, NH 03105-0330  
(603) 634-3355  
Robert.Bersak@psnh.com

RE: Docket No. DE 11-250  
Investigation of Merrimack Station Scrubber Project and Cost Recovery

Dear Bob Bersak:

Please find enclosed the Sierra Club's responses and objections to PSNH's first set of data requests to the Sierra Club in the above-captioned docket.

Sincerely,

Zachary M. Fabish  
Attorney for the Sierra Club  
50 F Street NW, 8<sup>th</sup> Floor  
Washington, D.C. 20001  
(202) 675-7917  
zachary.fabish@sierraclub.org

Enclosures

Cc: DE 11-250 Service List

Witness: Ranajit Sahu  
Request from: Public Service Company of New Hampshire

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Question 6:

6. Page 4: You state that prudence would “in part” consider future costs and risks. Please provide the basis for your understanding of how prudence will be determined in this proceeding. Provide any and all documents you are relying upon to support your opinion.

Response to Question 6:

Sierra Club objects to Question 6 on the grounds that it impermissibly calls for a legal conclusion.

Witness: Ranajit Sahu  
Request from: Public Service Company of New Hampshire

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Question 10:

10. Page 4, footnote 1: You testify that “mercury reduction could have been effected at each plant.” Did the scrubber law require mercury reduction to be so effected at each plant? If so, please identify where the scrubber law provided for that. If not, what did the scrubber law require?

Response to Question 10:

Sierra Club objects to Question 10 on the grounds that it is argumentative and impermissibly calls for a legal conclusion.

Witness: Ranajit Sahu  
Request from: Public Service Company of New Hampshire

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Question 11:

11. Page 4, footnote 2: You state that PSNH's "current argument" is that the scrubber law contained a legal mandate from the legislature requiring the installation of the scrubber.
  - a. What were PSNH's previous arguments regarding the scrubber law?
  - b. Do you assert PSNH's position has changed? How so?
  - c. Please identify all such arguments and provide specific citations thereto, and copies of all documents where you assert such arguments are found.

Response to Question 11:

Sierra Club objects to Question 11 on the grounds that it seeks information in the possession of PSNH. PSNH argues in its briefing that it was unable to do anything other than install a scrubber. PSNH is knowledgeable as to any other arguments it has made, and it is both irrelevant and unduly burdensome to seek such information from some other party.

Witness:

Request from: Public Service Company of New Hampshire

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Question 25:

25. Provide any and all documents related to positions SC has taken, including the development of such positions, regarding any pollution control projects at the "affected sources" as defined in RSA 125-O:12, 1 (including the Scrubber), including, but not limited to:
- a. Board meeting minutes or notes (formal or informal);
  - b. Meeting minutes or notes of any Board subcommittees or special committees;
  - c. Notes or minutes from any committees within SC,
  - d. Any internal notes or memoranda of any SC employee, agent, officer or board member; and
  - e. Any electronic mail message, including attachments, or any other electronic communications.

Response to Question 25:

Sierra Club objects to Question 25 on the grounds that it is vague and ambiguous as to the terms "positions," "taken," "development," and "pollution control projects," is not reasonably calculated to lead to the discovery of evidence relevant to any cause or claim in this docket, is overly broad in that it appears to seek information unrelated to any cause or claim in this docket, is unduly burdensome, fails to be limited as to time, fails to be limited as to relevant subject matter, and improperly calls for the production of attorney-client privileged and/or work product protected materials.

Witness: Mark Kresowik  
Request from: Public Service Company of New Hampshire

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Question 29:

29. Please provide all fuel price forecasts relating to the price of coal, oil and natural gas available to SC from 2005 through 2012.

Response to Question 29:

Sierra Club objects to Question 29 on the grounds that it is vague and ambiguous as to the term "available to SC from 2005 to 2012," not reasonably calculated to lead to the discovery of evidence relevant to any cause or claim in this docket, is unduly burdensome in that the requested material is just as available to PSNH as it is to the Sierra Club, seeks material "available" to Sierra Club and not that actually in Sierra Club's possession, custody, or control, and is overly broad in that it would seek production of information unrelated to any cause or claim in this docket.

Subject to and without waiving the objections above, the Sierra Club, understanding the term "available to SC from 2005 to 2012," to reference materials that were themselves available to Sierra Club during the period from 2005 to 2012 (and not forecasts for that period), responds that such information is publicly available from sources such as the Energy Information Agency, [www.eia.gov](http://www.eia.gov).

Witness:

Request from: Public Service Company of New Hampshire

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Question 30:

30. Please provide a copy of any document provided to any elected or appointed government official in New Hampshire by SC related to "An ACT relative to the reduction of mercury emissions" that took effect on June 8, 2006.

Response to Question 30:

Sierra Club objects to Question 30 on the grounds that it is not reasonably calculated to lead to the discovery of evidence relevant to any cause or claim in this docket, is unduly burdensome, is overly broad in that it would seek production of information unrelated to any cause or claim in this docket, fails to be limited as to time, and fails to be limited as to relevant subject matter.

Witness:

Request from: Public Service Company of New Hampshire

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Question 31:

31. Please identify any individual employed by or otherwise compensated by SC to work on its behalf concerning "An ACT relative to the reduction of mercury emissions" that took effect on June 8, 2006.

Response to Question 31:

Sierra Club objects to Question 31 on the grounds that it is vague and ambiguous as to the term "work on its behalf concerning 'An ACT relative to the reduction of mercury emissions,'" is not reasonably calculated to lead to the discovery of evidence relevant to any cause or claim in this docket, is overly broad in that it would seek production of information unrelated to any cause or claim in this docket, fails to be limited as to time, and fails to be limited as to relevant subject matter.

Witness:

Request from: Public Service Company of New Hampshire

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Question 32:

32. Please provide a copy of any document provided to any elected or appointed government official in New Hampshire by SC related to Senate Bill 152 and House Bill 496 in 2009.

Response to Question 32:

Sierra Club objects to Question 32 on the grounds that it is vague and ambiguous as to the term "related to Senate Bill 152 and House Bill 496 in 2009," is not reasonably calculated to lead to the discovery of evidence relevant to any cause or claim in this docket, is overly broad in that it would seek production of information unrelated to any cause or claim in this docket, fails to be limited as to time, and fails to be limited as to relevant subject matter.

Witness:

Request from: Public Service Company of New Hampshire

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Question 33:

33. Please identify any individual employed by or otherwise compensated by SC to work on its behalf concerning Senate Bill 152 and House Bill 496 in 2009.

Response to Question 33:

Sierra Club objects to Question 33 on the grounds that it is vague and ambiguous as to the term "work on its behalf concerning Senate Bill 152 and House Bill 496 in 2009," is not reasonably calculated to lead to the discovery of evidence relevant to any cause or claim in this docket, is overly broad in that it would seek production of information unrelated to any cause or claim in this docket, fails to be limited as to time, and fails to be limited as to relevant subject matter.

Witness:

Request from: Public Service Company of New Hampshire

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Question 34:

34. Please provide all documents exchanged between SC and the U.S. Environmental Protection Agency from 2006 to the present related to the “affected sources” as defined in RSA 125-O:12, I.

Response to Question 34:

Sierra Club objects to Question 34 on the grounds that it is not reasonably calculated to lead to the discovery of evidence relevant to any cause or claim in this docket, is overly broad in that it appears to seek information unrelated to any cause or claim in this docket, is unduly burdensome, is overly broad as to time, and fails to be limited as to relevant subject matter.

Witness:

Request from: Public Service Company of New Hampshire

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Question 35:

35. Please provide copies of any and all correspondence that SC had with NHDES that pertains to the "affected sources" as defined in RSA 125-O:12, I.

Response to Question 35:

Sierra Club objects to Question 35 on the grounds that it is not reasonably calculated to lead to the discovery of evidence relevant to any cause or claim in this docket, is overly broad in that it appears to seek information unrelated to any cause or claim in this docket, is unduly burdensome, is overly broad as to time, and fails to be limited as to relevant subject matter.

Witness:

Request from: Public Service Company of New Hampshire

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Question 36:

36. Please provide copies of any and all documents that SC provided to DES, any legislator or any state official concerning the “affected sources” as defined in RSA 125-O:12, I.

Response to Question 36:

Sierra Club objects to Question 36 on the grounds that it is not reasonably calculated to lead to the discovery of evidence relevant to any cause or claim in this docket, is overly broad in that it appears to seek information unrelated to any cause or claim in this docket, is unduly burdensome, is overly broad as to time, and fails to be limited as to relevant subject matter.

Additionally, Sierra Club responds that potentially responsive and relevant materials concerning Merrimack Station and causes or claims in this docket that Sierra Club has provided to the PUC in this docket are already readily available to PSNH.

Witness:

Request from: Public Service Company of New Hampshire

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Question 37:

37. Please provide copies of any and all documentation that SC has regarding estimates of newly proposed coal and natural gas combined cycle generating stations in the 2008-2009 time frame.

Response to Question 37:

Sierra Club objects to Question 37 on the grounds that it is vague and ambiguous as to the term "in the 2008-2009 time frame," not reasonably calculated to lead to the discovery of evidence relevant to any cause or claim in this docket, is unduly burdensome in that the requested material is just as available to PSNH as it is to the Sierra Club, and is overly broad in that it would seek production of information unrelated to any cause or claim in this docket.

Witness:

Request from: Public Service Company of New Hampshire

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Question 38:

38. Please provide copies of any and all documentation in SC's possession regarding the forward market for natural gas delivered to New England in the 2008 through 2011 time frame.

Response to Question 38:

Sierra Club objects to Question 38 on the grounds that it is vague and ambiguous as to the term "in the 2008 through 2011 time frame," is not reasonably calculated to lead to the discovery of evidence relevant to any cause or claim in this docket, is unduly burdensome in that the requested material is just as available to PSNH as it is to the Sierra Club, and is overly broad in that it would seek production of information unrelated to any cause or claim in this docket.

Witness:

Request from: Public Service Company of New Hampshire

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Question 39:

39. Please provide any and all documentation in SC's possession related to the bus bar costs of power for a new coal or natural gas combined cycle plant in New England during the 2008 to 2012 time period.

Response to Question 39:

Sierra Club objects to Question 39 on the grounds that it is vague and ambiguous as to the term "during the 2008 to 2012 time period," is not reasonably calculated to lead to the discovery of evidence relevant to any cause or claim in this docket, is unduly burdensome in that the requested material is just as available to PSNH as it is to the Sierra Club, and is overly broad in that it would seek production of information unrelated to any cause or claim in this docket.

Witness:

Request from: Public Service Company of New Hampshire

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Question 47:

47. Does SC agree that if a decision had been made to divest Merrimack Station during the 2008 to 2010 time period, the new owner would have been subject to the requirements of the Scrubber Law? If not, explain your answer in full.

Response to Question 47:

Sierra Club objects to Question 47 on the grounds that it is not reasonably calculated to lead to the discovery of evidence relevant to any cause or claim in this docket, impermissibly calls for speculation, and impermissibly calls for a legal conclusion.

Witness:

Request from: Public Service Company of New Hampshire

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Question 51:

51. The purpose clause of the Scrubber Law, RSA 125-O:11 finds installation of the scrubber to be in the public interest of the citizens of New Hampshire and the customers of the affected sources; it also refers to the careful and thoughtful balancing of the cost and benefits. SC discusses some of the costs, but not the potential benefits.
- a. Please provide a listing of all possible “benefits” that the Legislature may have included in the referenced “balancing.”
  - b. Do you agree that maintenance of a tax base for state and property taxes is such a potential “benefit”? If your response to this question is no, please explain.
  - c. Do you agree continued viability of the rail line from Nashua to Concord is such a potential “benefit”? If your response to this question is no, please explain.
  - d. Do you agree fuel diversity in electric generation in the region is a potential “benefit”? If your response to this question is no, please explain.
  - e. Do you agree reliability of the electric grid in the region is a potential “benefit”? If your response to this question is no, please explain.
  - f. Do you agree the lessening of the state's dependence upon other sources of electrical power which may, from time to time, be uncertain is such a potential “benefit”? If your response to this question is no, please explain.
  - g. Do you agree the retention in-state of energy expenditures is a potential “benefit”? If your response to this question is no, please explain.
  - h. Do you agree the creation of jobs is such a potential “benefit”? If your response to this question is no, please explain.
  - i. Do you agree the retention of jobs is such a potential “benefit”? If your response to this question is no, please explain.

Response to Question 51:

Sierra Club objects to Question 51 on the grounds that it is vague and ambiguous as to the terms “careful and thoughtful balancing,” “costs and benefits” and the claim “SC discusses some of the costs, but not the potential benefits,” is argumentative, is not reasonably calculated to lead to the discovery of evidence relevant to any cause or claim in this docket, impermissibly calls for speculation, and impermissibly calls for a legal conclusion.

Witness: Mark Kresowik  
Request from: Public Service Company of New Hampshire

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Question 52:

52. Is SC intending to challenge in any manner the final reports produced by Jacobs Consultancy Inc. which was retained by the NHPUC to monitor and report on PSNH's Clean Air Project at Merrimack Station? If so, please explain and identify in detail all areas of the Jacobs' reports you are challenging.

Response to Question 52:

Sierra Club objects to Question 52 on the grounds that it is vague and ambiguous as to the terms "challenge," and "final reports," that it impermissibly calls for legal conclusions, and to the extent that it calls for the production of attorney-client or work product protected materials. Sierra Club reserves the right to evaluate and refine its legal strategy in advance of hearing in this Docket, the date for which has, at the time of this response, been taken off-calendar.

**Witness:**

**Request from: Public Service Company of New Hampshire**

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**Question 59:**

59. Please provide copies of all SC's media releases, web site postings, blogs, twitter posting and the like concerning any of the "affected sources" as defined in RSA 125-O:12, I (including the Scrubber) from 2005 to present.

**Response to Question 59:**

Sierra Club objects to Question 59 on the grounds that it is vague and ambiguous as to the terms "media releases," "twitter posting," and "and the like," it is not reasonably calculated to lead to the discovery of evidence relevant to any cause or claim in this docket, is overly broad in that it appears to seek information unrelated to any cause or claim in this docket, is unduly burdensome, fails to be sufficiently limited as to time, and fails to be limited as to relevant subject matter. Question 59 also seems to be largely redundant of Question 25.