

THE STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Investigation of Merrimack Station Scrubber Project and Cost Recovery

Docket No. DE 11-250

**SIERRA CLUB'S OBJECTION TO PUBLIC SERVICE COMPANY OF NEW
HAMPSHIRE'S MOTION TO COMPEL ANSWERS TO PSNH DATA REQUESTS
SERVED ON SIERRA CLUB**

Pursuant to Puc 203.07(e), Sierra Club hereby objects to Public Service Company of New Hampshire's ("PSNH's") Motion to Compel Answers to PSNH Data Requests Served on the Sierra Club. The Commission should deny PSNH's Motion because it seeks information that is not relevant to the consideration of the prudence of PSNH's scrubber project, is overbroad in scope, and impermissibly seeks legal conclusions. In support of this Objection, Sierra Club states as follows:

BACKGROUND

1. On December 1, 2011, the Commission issued an Order of Notice in the above-captioned docket, noting that the docket was opened for the purpose of "considering the Scrubber Project, including the in-service status, PSNH's prudence, the appropriate rate treatment and the costs of the Scrubber Project." Order of Notice at 1.

2. On December 8, 2011, Sierra Club filed its Petition for Intervention. On December 23, 2011, the Commission granted Sierra Club's Petition, noting that, "given the particular circumstances of this docket [] intervention requests will be granted," for NEPGA, TransCanada, Sierra Club, and CLF. December 23, 2011 Secretarial Letter at 1.

3. On December 23, 2013, the Sierra Club filed testimony from Dr. Ranajit Sahu in this docket.

4. On January 16, 2014, PSNH submitted 59 separate data requests to the Sierra Club, consisting of 24 questions directed to Dr. Sahu regarding his testimony, and another 35 directed instead at the Sierra Club itself. A true and correct copy of those requests is attached hereto as Attachment A.

5. On January 27, 2014, pursuant to Puc 203.09(f), Sierra Club timely served its set of objections to PSNH's data requests.

6. On January 31, 2014, the Commission via a Secretarial Letter ordered that the procedural schedule for responses to data requests to which there are no objections was extended until February 14, 2014. *See* January 31, 2014 Secretarial Letter at 1.

7. On February 14, 2014, Sierra Club timely served answers to those of PSNH's data requests to which it had not objected, as well as to multiple other data requests notwithstanding and without waiving its objections.

8. On February 21, 2014, PSNH filed a Motion to Compel, seeking an order from the Commission compelling responses to questions 6, 10, and 11 directed at Dr. Sahu regarding his testimony, and to 25, 29-39, 47, 51, 52, and 59 directed at the Sierra Club.

ARGUMENT

9. PSNH's data requests, and its Motion to Compel, seek to dramatically expand the scope of this action beyond the consideration of the scrubber, its in-service status, PSNH's prudence, and the appropriate rate treatment and the costs of the Scrubber Project, into a free-ranging fishing expedition through hazily-defined and poorly delineated universes of material, including impermissible inquiry into Sierra Club's legal conclusions and strategy. In so doing,

PSNH seeks the production of vast quantities of irrelevant documents, subjecting Sierra Club to undue discovery burdens. PSNH's Motion should accordingly be denied.

A. Standard

10. A party compelling discovery must demonstrate that the information being sought is relevant to the proceeding or is reasonably calculated to lead to the discovery of admissible evidence. Order No. 25,334 at 9 (March 12, 2012). When considering motions to compel, the Commission balances such factors as the relevance of the requested information, the effort needed to gather it, the availability of the information from other sources, and other relevant criteria. *See Re Public Service Company of New Hampshire*, Order No. 20,216 at 692 (1991). When deciding whether to compel discovery responses, the Commission considers the extent to which the information being sought is relevant to the proceeding or reasonably calculated to lead to the discovery of admissible evidence. *See* Order No. 25,595 at 6 (Nov. 15, 2013); *Investigation into Whether Certain Calls Are Local*, Order No. 23,658 at 5 (March 22, 2001). “[I]n general, discovery that seeks irrelevant or immaterial information is not something we should require a party to provide.” *City of Nashua*, Order No. 24,681 at 2 (Oct. 23, 2006); *see also New Hampshire Ball Bearings, Inc. v. Jackson*, 158 N.H. 421, 430 (N.H. 2009) (affirming decision of trial court to deny discovery request for numerous electronic files of defendant); *Robbins v. Kalwall Corp.*, 120 N.H. 451, 453 (N.H. 1980); *Hartford Accident Indem. Co. v. Cutter*, 108 N.H. 112, 114 (N.H. 1967); *Riddle Spring Realty Co. v. State*, 107 N.H. 271, 278 (N.H. 1966).

11. Questions asking for legal interpretation or legal conclusions are not proper uses of the discovery process. *See Petition for Review of the Reasonableness of Certain Charges of Public Service Company of New Hampshire for Services to Competitive Suppliers*, Order No.

25,576 at 3 (Sept. 25, 2013) (denying motion to compel, and agreeing with PSNH’s argument that since the movant “is able to read the tariff language on its own, [and] that [movant] is free to argue its own interpretation of the tariff language to the Commission,” responses to questions seeking PSNH’s understanding of said tariff language were not required). Similarly, questions concerning “hypothetical situations” are not relevant, as they are “not likely to lead to the discovery of admissible evidence.” *Id.* at 6 (denying motion to compel); *see also Freedom Ring Communications, LLC d/b/a Bay Ring Communications*, Order No. 24,760 at 2 (June 7, 2007) (denying motion to compel seeking the production of “legal characterizations or argument from an opposing party”).

B. PSNH’s Data Requests Directed at Dr. Ranajit Sahu

12. PSNH moves to compel responses to 3 of the 24 data requests on the testimony of Dr. Ranajit Sahu: Questions 6, 10, and 11. Questions 6 and 10 impermissibly call for legal conclusions, and thus the Motion should be denied on those grounds; Question 11 seeks information concerning testimony that Dr. Sahu *did not actually offer*, and thus the Motion should be denied as to that Question as well.¹

13. Specifically, Question 6 asks “how prudence will be determined in this proceeding,” and thereby seeks a legal determination; as such, PSNH’s Motion to Compel must fail. *See* Order No. 25,576 at 3 (Sept. 25, 2013) (denying motion to compel where it calls for a legal conclusion). Nonetheless, Sierra Club has provided a supplemental response to Question 6, explaining Dr. Sahu’s understanding of prudence as it applies to a utility as discussed in his testimony. *See* Attachment B, Question 6.

¹ As explained more fully below, Sierra Club has nonetheless offered and served supplemental responses to these and other Questions, which Sierra Club believes should resolve PSNH’s discovery dispute as to those Questions. *See* Attachment B.

14. Likewise, Question 10 asks “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 no, what did the scrubber law require?” This Question on its face calls for an interpretation of a duly enacted statute, the language and various subsections of which speak for themselves. *See Investigation into Purchase of Receivables, Customer Referral and Electronic Interface Programs*, Order No. 25,439 at 12 (Dec. 7, 2012) (denying motion to compel response to a data request seeking interpretation of certain rules and statute on the grounds that “the statute and rules speak for themselves.”) PSNH’s Motion to Compel as regards Question 10 must accordingly be denied.

15. Sierra Club has, nonetheless, served a supplemental response to Question 10, identifying relevant sections of RSA 125:O responsive to PSNH’s data request. *See Attachment B, Question 10.*

16. Finally, PSNH’s Question 11 bafflingly demands that Sierra Club produce material concerning arguments *PSNH* may or may not have made in the past. Specifically, PSNH seizes on the following line from Dr. Sahu’s pre-filed testimony: “I am aware that it is PSNH’s current argument that it had no choice but to proceed with the project on the theory that it was a legal mandate from the legislature,” to request an array of materials. Testimony of Dr. Ranajit Sahu at 4, n.2. Far from being, as PSNH characterizes it in its Motion, a mere “simple question that asks the witness to explain what he means,” PSNH demands identification of “PSNH’s previous arguments regarding the scrubber law,” and “all such arguments” along with “specific citations thereto, and copies of all documents where [Dr. Sahu] assert[s] such arguments are found.” Besides it being unduly burdensome for PSNH to seek production of documentation of PSNH’s own arguments from Sierra Club, nothing in Dr. Sahu’s testimony

takes any position one way or the other as to whether or not such arguments even exist; certainly he nowhere “asserts” that such arguments can be found anywhere. PSNH’s Question 11 is thus groundless, and its Motion to Compel on that point should be denied. Further, Sierra Club has served a supplemental response to Question 11, making absolutely plain that Dr. Sahu’s statement as to PSNH’s “current” argument is intended to be interpreted literally, as meaning “at this point in time,” and is not meant to express any implications beyond that. *See* Attachment B, Question 11. This supplemental response should address and resolve any lingering misapprehension on PSNH’s part.

C. PSNH’s Data Requests Directed at the Sierra Club

17. PSNH moves to compel responses to multiple overly broad data requests that seek information not relevant to the issues under consideration in this docket and which, in places, impermissibly call for legal conclusions or divulgement of case strategy: Questions 25, 29-39, 47, 51, 52, and 59. As an initial matter, Sierra Club notes that these requests are on not, either on their face or in substance, directed towards the pre-filed testimony of Dr. Sahu, and thus are incompatible with multiple secretarial letters authorizing discovery in the form of data requests “on testimony,” as opposed to data requests on any subject. *See, e.g.*, November 15, 2013 Secretarial Letter at 1 (noting Commission approval of a period of discovery for “Data Requests on Testimony”); August 6, 2013 Secretarial Letter at 1 (same); *see also* July 25, 2013 Staff Letter Report on Technical Session at 1 (noting the parties, including PSNH, agreed to a procedural proposal likewise containing a period of discovery for “Data Requests on Testimony,” with no other data requests contemplated); December 24, 2013 PSNH Motion to Amend Procedural Schedule at 2 (requesting a two-week extension of the deadline for “filing of data requests on testimony”). PSNH cannot now jam wide-ranging discovery from the Sierra

Club through the more narrow window of data requests concerning pre-filed testimony. Thus, in addition to the reasons discussed below, PSNH's Motion to Compel should be denied on the grounds that it seeks compulsion of information responsive to data requests that are not directed to pre-filed testimony.

Questions 25 and 59

18. Questions 25 and 59 seek materials not relevant to the issues in this docket, and are impermissibly broad and burdensome in scope. PSNH in its Motion mischaracterizes Questions 25 and 59 as seeking information about the "internal" and "external" positions Sierra Club has taken regarding "the" pollution control projects at the "affected sources." Motion at 5. However, Question 25 in actuality seeks all documents related to the development of any Sierra Club position "regarding *any* pollution control projects" at the "affected sources." (emphasis added). Specifically, PSNH demands, among others, the following types of materials in Question 25:

- 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.

Similarly, Question 59 seeks production of all "media releases, web site postings, blogs, twitter postings and the like concerning any of the 'affected sources.'"

19. PSNH's requests are thus exceedingly and impermissibly overly broad. PSNH's Question 25 fails to be limited as to time, fails to be limited as to subject matter (in that it seeks materials and information concerning not just the scrubber project at issue in this proceeding, or not even merely Merrimack Station, but *any* pollution control project at any time at Merrimack Units 1 or 2 or Schiller Units 4, 5, or 6), and would accordingly sweep in great numbers of

documents having nothing to do with the prudence of PSNH's scrubber project. Likewise, although Question 59 has a lower-bound time limit, it sweeps in an even larger amount of ostensibly responsive material: materials merely "concerning" Merrimack Station and Schiller Station, in any capacity, whether or not they had anything to do with the Scrubber Project or PSNH's prudence thereto. Indeed, PSNH's inclusion of the particularly vague phrase "and the like" leaves the categories of material being sought entirely open-ended.²

20. Nor is the material sought in Questions 25 and 59 relevant to the issues under consideration in this docket. Sierra Club's positions—and certainly the mere *development* of such positions, let alone associated internal emails, notes, and memoranda—concerning every single pollution control project at Merrimack and/or Schiller at any point in time, or Sierra Club's external materials merely "concerning" Merrimack or Schiller, simply have nothing to do with the prudence of PSNH's actions and decisionmaking with regard to the scrubber project.

21. PSNH nonetheless attempts to argue that the vast corpus of material it seeks "may" be useful for cross-examination and "could" be relevant to the "credibility" of the Sierra Club. However, the "credibility" of the Sierra Club does not enter into an analysis of PSNH's prudence; and at any rate, PSNH has not made any attempt to seek material indicative of alleged shifts in position, and instead seeks all material concerning any and all positions. (It is further noteworthy that PSNH has not bothered to ask Dr. Sahu whether he has in the past expressed positions contradictory to those he holds now; nor would possible distinctions between Dr. Sahu's positions and those of the Sierra Club be particularly notable or relevant.) At end, PSNH's mere cryptic reference to a belief that perhaps the Sierra Club has taken "contradictory

² Further, it is instructive that when PSNH lists the putative positions Sierra Club has taken which PSNH argues it wishes to examine through Questions 25 and 59, all of them concern the prudence of the scrubber project. *See* Motion at 6. PSNH appears to agree that Questions 25 and 59 are overly broad.

positions,” at some point in time does not justify an extensive fishing expedition through Sierra Club’s internal files.³ PSNH bears the burden of demonstrating that the information being sought is relevant to the proceeding, and here has completely failed to do so. *See* Order No. 25,334 at 9 (March 12, 2012); *see also* Order No. 25,592 (Nov. 1, 2013) at 5-6 (docket concerns a determination of “what PSNH’s management options were under existing law,” and not efforts to amend that law). PSNH’s Motion to Compel as to Questions 25 and 59 should be denied.

Questions 29, 37, 38, and 39

22. PSNH attempts to argue that, because the Commission ordered that it produce economic analyses and fuel price forecasts materials PSNH held “in the context of PSNH’s decision to proceed with construction of the Scrubber,” PSNH is now free to seek even more expansive sets of economic analyses and price forecasts from the Sierra Club. Order No. 25,445 at 26. PSNH is incorrect, for multiple reasons.

23. First, PSNH’s argument flows from a faulty premise. The Commission ordered production of materials from PSNH because “any economic analysis **PSNH** may have conducted and what conclusions **it** reached regarding the costs of the Scrubber and environmental compliance . . . [are] relevant to our consideration of **PSNH’s prudence** in constructing the Scrubber.” *Id.* at 26-27 (emphasis added). Far from ruling that economic analyses and other forecast materials are relevant in the abstract, the Commission correctly noted that, in a determination of *PSNH’s* prudence in its decision to move forward with the Scrubber Project, the analyses conducted by *PSNH* and/or available to *PSNH* are relevant. Whatever analyses or

³ For example, assuming, arguendo, that in 2006 the Sierra Club supported construction of a scrubber at Merrimack at a not-to-exceed cost of \$250 million, the Sierra Club years later souring on the idea when the costs of the project ballooned to over \$420 million neither indicates “contradictory positions” nor, more importantly, renders PSNH’s scrubber project more or less prudent.

forecasts may or may not have been available to Sierra Club during that time frame simply have nothing to do with PSNH's prudence.

24. Second, even if some of the information sought by PSNH's data requests were relevant to PSNH's prudence (which it is not), PSNH's requests are greatly overbroad. Question 29 seeks "all fuel price forecasts relating to the price of coal, oil and natural gas available to SC from 2005 to 2012." Besides encompassing a period of time both predating the scrubber law and postdating PSNH's decision to move forward with the Scrubber Project, the Question fails to be limited as to geographic scope or even limited to the electric generating sector—PSNH appears to feel entitled to seek discovery from Sierra Club concerning forecasts in regions of the country or even in other countries completely unrelated to its service territory. None of this material is relevant to PSNH's prudence.

25. Similarly, Question 37 seeks "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." Besides being unclear as to what is meant by "the 2008-2009 time frame" (estimates themselves dating from that time frame, estimates Sierra Club had in that time frame, estimates from any time concerning stations proposed in that time frame, etc.), the term "estimates" is not limited in any way by PSNH. PSNH appears to be seeking estimates of costs of new stations, numbers of new stations, the size of new stations, the timeline for new stations, or any—perhaps every—other sort of estimate. Nor is the request limited as to geographic scope—estimates concerning new stations anywhere on Earth are requested by PSNH. Such extreme overbreadth cannot support a motion to compel, even if PSNH had carried its obligation to establish the relevancy of the vast field of information sought, which it has not and cannot.

26. Questions 38 and 39 are likewise overly broad. These seek “any and all documentation” regarding the “forward market for natural gas delivered to New England” and the “bus bar costs of power for a new coal or natural gas combined cycle plant in New England” during the 2008-2011 and 2008-2012 time frames, respectively. However, as this Commission’s Order makes plain, what is relevant are materials PSNH had during the time it was deciding to move forward with the Scrubber Project; materials, such as those requested in Questions 38 and 39, that *postdate* that decision and look retroactively at the natural gas market and bus bar electricity costs are simply not relevant.

27. Finally, as Sierra Club points out in its response to Question 29, at least some of the information PSNH’s extremely broad requests seek is available from public sources, such as the Energy Information Agency. Even if material responsive to PSNH’s requests were relevant, it would be unduly burdensome to require Sierra Club to produce materials that are readily available online for free. Accordingly, for the foregoing reasons, PSNH’s Motion to Compel as to Questions 29, 37, 38, and 39 must fail.

Questions 30-36

28. PSNH also moves to compel production of materials responsive to Questions 30-36; however, these Questions are premised on a misreading of Order No. 25,398. There, TransCanada sought production of materials related to very specific claims and specified pieces of correspondence concerning PSNH’s original \$250 million scrubber cost figure. Nonetheless, PSNH appears to believe that the narrow discovery sought and granted by the Commission in response to TransCanada’s motion to compel concerning TC 1-6, 1-7, 1-9, 1-10, 2-2, and 2-3 gives it license to now seek compulsion of *all* materials that may have been exchanged between

Sierra Club and multiple government, public, and legislative entities, without regard to subject matter.⁴ This is improper, and PSNH's Motion to Compel should accordingly be denied.

29. First, and consistent with the arguments above, while PSNH's decisionmaking concerning the Scrubber Project is relevant to the central issue of this docket—PSNH's prudence—the positions taken or communications with various government officials and agencies by the Sierra Club simply are not. This is particularly evident in the Commission's Order regarding TC 2-2 and TC 2-3. There, the Commission granted TransCanada's motion to compel seeking responses to data requests concerning a specific piece of correspondence discussing information shared between PSNH and NHDES. Order No. 25,398 at 16-17 (granting motion to compel as regards requests seeking information about data from PSNH referenced in a "January 12, 2006 letter from DES Commissioner Michael Nolin to the Science, Technology and Energy Committee relative to HB 1673"). The TransCanada requests the Commission granted specifically and narrowly had to do with cost information provided by PSNH to government officials and the legislature, which is relevant to the question of what information PSNH was considering when it made its decision to move forward with the Scrubber Project. The same conditions do not apply to the Sierra Club, which was not involved in that decision.

30. Second, PSNH's requests are overly broad. Neither Questions 30 nor 32, for example, are limited as to time (and would in fact include everything submitted by Sierra Club in this docket, among other things), and Questions 34, 35, and 36 fail to be limited as to subject matter—they seek copies of all correspondence and Sierra Club has had with NHDES, EPA, or

⁴ PSNH, in relying on this Commission's Order on TransCanada's motion to compel, ignores that fact that PSNH voluntarily answered or failed to object to multiple of the data requests considered in that Order. *See* Order No. 25,398 at 11 (denying Motion to Compel and noting that PSNH had already answered TC 1-6); *id.* at 12 (noting that PSNH had answered TC 1-7); *id.* at 15 (compelling an answer to TC 1-10 where PSNH had failed to object to, and had answered, a similar request).

materials provided to NHDES or “any legislator or any state official,” concerning Merrimack Station or Schiller Station, whether or not such materials have anything to do with the Scrubber Project, or even whether they concern any pollution control project at all. Questions 35 and 36 are further completely unlimited as to time, and thus seek copies of correspondence and materials exchanged between Sierra Club and New Hampshire officials discussing any aspect of Merrimack or Schiller, generated at any point, presumably, during the six decades since Schiller came online in 1952. This is in stark contrast with TransCanada’s TC 2-2 and 2-3, for example, which sought correspondence specifically referenced in a single letter. *Id.* at 16-17. PSNH’s Questions 30-36 are both enormously overbroad, and seek material irrelevant to the prudence determination in this docket; accordingly its Motion to Compel should be denied.

31. Finally, notwithstanding and without waiving its objections, Sierra Club has served supplemental responses to Questions 31 and 33, identifying Cathy Corkery as an employee who worked on behalf of the Sierra Club concerning “An ACT relative to the reduction of mercury emissions” that took effect on June 8, 2006 (Question 31) and New Hampshire Senate Bill 152 and House Bill 496 in 2009 (Question 33); Sierra Club notes further that material responsive to Question 32 was provided in Sierra Club’s initial Responses in response to Question 41. *See* Attachment B, Questions 31 and 33.

Questions 47, 51, and 52

32. PSNH’s Questions 47, 51, and 52 seek legal conclusions and production of Sierra Club’s legal and case strategies, and thus are improper data requests to which no answer is warranted.

33. Specifically, Question 47 asks:

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.

This Question is thus on its face seeking an assessment of the applicability of the Scrubber Law in a hypothetical situation, to a hypothetical party, and accordingly is impermissibly seeking the legal research and impressions of the Sierra Club. Discovery is intended to seek factual information, not legal research; PSNH's Motion to Compel should be denied as to Question 47. Order No. 25,576 at 3, 6 (Sept. 25, 2013) (denying motion to compel where it calls for a legal conclusion or concerned a hypothetical situation).

34. PSNH attempts to escape this by arguing in its Motion that Question 47, contrary to its language, really seeks "evidence or information concerning [alternatives]" to building the scrubber, "the extent to which those other alternatives were in fact real and viable, and what the consequences of implementing such alternatives might have been." Motion at 7. Whether or not a response would be warranted to such a question, this is not the Question that PSNH asked in its data requests, which instead asked whether or not a new owner would have been "subject" to the "Scrubber Law." Any answer to Question 47 would not be "evidence," but would be a legal conclusion.

35. Question 51 likewise calls for a legal conclusion. Question 51 asserts that RSA 125-O:11 refers to a thoughtful balancing of costs and benefits, and then asks a series of nine different sub-questions about what benefits may be included in that referenced balancing. Question 51 is thus wholly a question seeking statutory interpretation of RSA 125-O:11. However, RSA 125-O:11 is a duly enacted statute, the language and various subsections of which speak for themselves. *See* Order No. 25,439 at 12 (Dec. 7, 2012) (denying motion to

compel response to a data request seeking interpretation of certain rules and statute on the grounds that “the statute and rules speak for themselves.”) PSNH cannot ask other parties in this docket to provide discovery responses as to the meaning or interpretation of RSA 125-O:11; nor can it ask them to speculate as to what the legislature may have had in mind in passing the provision.⁵

36. Finally, Question 52 bluntly seeks production of Sierra Club’s legal strategy in this docket, and accordingly PSNH’s Motion to Compel on that Question must fail. Question 52 asks whether Sierra Club “intend[s] to challenge in any manner the final reports produced by Jacobs Consultancy Inc.” and requests that Sierra Club “explain and identify in detail all areas of the Jacobs’ reports you are challenging.” PSNH claims that it is “entitled” to know whether or not Sierra Club has any basis to challenge the Jacobs Reports; even if that were true (and it is not), that is not the question that PSNH asked in its data requests. Instead, PSNH asked whether and how Sierra Club would challenge the Jacobs Reports, and such a question is beyond the bounds of fact-based discovery. PSNH is not entitled to peer into the minds of other parties in the docket to review their legal strategy, and accordingly, its Motion to Compel should be denied.

WHEREFORE, Sierra Club respectfully requests that the Commission deny PSNH’s Motion to Compel.

Respectfully Submitted,
The Sierra Club

⁵ PSNH makes—but provides no support for—the claim that responses to Question 51 would be “relevant to the testimony of Dr. Sahu.” Motion at 7. Even if Question 51 did not impermissibly call for legal conclusions, PSNH mistakes the core analysis: discovery is permissible if it is relevant to the proceeding—here, PSNH’s prudence—not merely to some other piece of discovery.

Dated: March 3, 2014

By: _____/s/
Zachary M. Fabish
The Sierra Club
50 F Street NW, 8th Floor
Washington, D.C. 20001
(202) 675-7917
(202) 547-6009 (fax)
zachary.fabish@sierraclub.org