

TransCanada Motion on Scope of Proceedings
August 25, 2014
Exhibit A
Docket No. De 11-250

TO: Members of the Senate

FROM: Patrick Murphy, *Legislative Aide*

RE: Hearing report on SB152 relative to an investigation by the public utilities commission to determine whether the scrubber installation at the Merrimack station is in the public interest of retail customers.

HEARING DATE: March 13, 2009

MEMBERS OF THE COMMITTEE PRESENT:

Senator Fuller Clark (Dist 24), Senator Merrill (Dist 21), Senator Cilley (Dist 6), Senator Lasky (Dist 13), Senator Odell (Dist 8), Senator Carson (Dist 14)

MEMBERS OF THE COMMITTEE ABSENT:

None

Sponsor(s):

Sen. Janeway, Dist 7; Rep. Cushing, Rock 15; Rep. R. Read, Rock 16; Rep. Borden, Rock 18

What the bill does:

This bill requires the public utilities commission to investigate whether installation of mercury scrubber technology at Merrimack Station is in the interest of retail customers of Public Service Company of New Hampshire.

Supporters of the bill:

Senator Janeway, Dist 7; Representative Hamm, Merr 4; Chris James and David Schlissel, Synapse Energy Economics Inc.; Jamie French, Northland Forest Products; Alexander Lee, Project Laundry List; Sandi Hennequin, New England Power Generators Association; Mark McPeak, Executive Director of UUSC Just Democracy; Gary Hirshberg, Commercial Ratepayers; Meredith Hatfield, Office of Consumer Advocate; Ken Colburn, Commercial Ratepayer; Catherine Bowes, National Wildlife Federation; Will Abbott, Society for the Protection of NH Forests; Joel Harrington, The Nature Conservancy

For a complete list of those signing in but not wishing to speak please see the official sign-in sheets.

Those in opposition to the bill:

Senator Gatsas, Dist 16; Senator Letourneau, Dist 19; Representative Long, Hills 10; Representative Walz, Merr 13; Representative Kotowski, Merr 9; Gary Long, PSNH; Ed Foley, NH Building Trades; Daniel O'Neil, Manchester Alderman; Harry Judd, Bow Selectman; Lisa Shapiro GCG/PSNH; Chris Williams, Nashua Chamber of Commerce; Gary Fortier - Power Advocates; David Fink, Pan Am Rail; Dan Fortin, President and CEO of Breath NH

For a complete list of those signing in but not wishing to speak please see the official sign-in sheets.

Merrimack on the open market, it would cost the city and all Manchester ratepayers an additional \$5.5 million per year.

- Initiating policies that could lead to the shut down of Merrimack Station could negatively impact the future of Manchester by eliminating the possibility of bringing passenger rail to the city. A lot of people have worked for years to move this issue forward, but the fact is that all plans for passenger rail depend on an active freight rail operation. Without freight trains carrying coal, lime and other materials to and from the Bow power plant, passenger rail will not happen.

Harry Judd, Bow Selectman

- This legislation is unnecessary. The PUC will conduct a full audit and prudence review, before the cost of the improvements at Merrimack Station is permitted in PSNH's rates. This is a standard procedure before any significant capital addition is approved and it is sure to be done for this project.
- The effect of delay could result in abandonment of the project, which would result in the closing of the unit. PSNH is mandated to have the scrubber technology operational by July 1, 2013, and the delay proposed in this bill would most likely make that an impossibility. Without scrubbers the plant will not meet EPA standards, and will be forced to close.
- Regulated entities are entitled to regulatory certainty. The relevant provisions of RSA 125-O were enacted after thorough vetting with all parties of interest. I believe that if the state reneges on the regulatory compact established in RSA 125-O it would face serious consequences.
- If delay results in closing the plant, the reliability of energy supply in NH will be jeopardized. Diversity of generation is essential to prudent utility planning and for cost control.
- Merrimack Station is a base load unit. It is dispatchable, meaning it will be online when needed to meet demand. Evolving technologies, such as wind and solar, have yet to evolve into dispatchable generation.
- PSNH is a good corporate citizen, both in Bow and in NH.

Alexander Lee -- Project Laundry List

- Commented on the negative environmental effects of using coal for power generation.

Dr. Lisa Shapiro

- The purpose of this study is to provide an estimate of the economic benefits to NH -- jobs, gross state product, and personal income -- from the construction of a wet flue gas desulphurization system, commonly called a scrubber, at Merrimack Station.
- There is immediate and significant job creation from the investment in the scrubber project as a result of direct, indirect, and induced economic effects.
- Beginning in 2009 and continuing through 2012, about 1,000 jobs per year will be created (or saved) in NH from the scrubber construction project.
- The new (or saved) jobs are primarily in construction, retail, and services.
 - Median estimate of 1,118 new (or saved) jobs in 2009.
 - Median estimate of 1,241 new (or saved) jobs in 2010.
 - Median estimate of 876 new (or saved) jobs in 2011.
 - Median estimate of 692 new (or saved) jobs in 2012.

Q-TC-06-012:

With regard to your testimony on page 8 regarding practical options available to PSNH, was supporting SB 152 in 2009 a practical option for PSNH?

PSNH objects to this request on the following bases:

- i. Relevance.
- ii. In Order No. 25,566 the Commission stated it saw “no relevance to PSNH’s ... involvement in cooperating with the Legislature to pass the Scrubber law.”
- iii. In Order No. 25,646 the Commission set forth five discovery standards. Per Standard #3, “Standard Requests for Statements to Legislators or other Governmental Officials” (“Standard #3), the Commission decided, “evidence that proves whether a party was ‘cooperating with’ or ‘attempt[ing] to block’ legislation is irrelevant, *Public Service Co. of N.H.*, Order No. 25,566 at 5 (Aug. 27, 2013).” This request violates this standard.

Q-TC-06-014:

What were the options that PSNH had in terms of the position that it took and the information it provided on SB 152 in 2009?

PSNH objects to this request on the following bases:

- i. Relevance.
- ii. In Order No. 25,566 the Commission stated it saw “no relevance to PSNH’s ... involvement in cooperating with the Legislature to pass the Scrubber law.”
- iii. In Order No. 25,646 the Commission set forth five discovery standards. Per Standard #3, “Standard Requests for Statements to Legislators or other Governmental Officials” (“Standard #3), the Commission decided, “evidence that proves whether a party was ‘cooperating with’ or ‘attempt[ing] to block’ legislation is irrelevant, *Public Service Co. of N.H.*, Order No. 25,566 at 5 (Aug. 27, 2013).” This request violates this standard.

Q-TC-06-016(a):

Reference your testimony at page 10. Do you know whether Jacobs was instructed to consider the question of whether Merrimack Station could have stopped operating?

PSNH objects to this request on the following bases:

Q-TC-06-105:

Reference pages 10 through 13 of Mr. Harrison and Mr. Kaufman's testimony, upon which you rely. Do you believe that a prudent utility in PSNH's position in 2009 would have identified these uncertainties for the Legislature if said Legislature was considering further study of a \$450 million capital investment?

PSNH objects to this request on the following bases:

- i. Relevance.
- ii. In Order No. 25,566 the Commission stated it saw "no relevance to PSNH's ... involvement in cooperating with the Legislature to pass the Scrubber law."
- iii. In Order No. 25,566, the Commission stated, "PSNH is not responsible for the Legislature's actions, nor for ours."
- iv. In Order No. 25,646 the Commission set forth five discovery standards. Per Standard #3, "Standard Requests for Statements to Legislators or other Governmental Officials" ("Standard #3), the Commission decided, "evidence that proves whether a party was 'cooperating with' or 'attempt[ing] to block' legislation is irrelevant, *Public Service Co. of N.H.*, Order No. 25,566 at 5 (Aug. 27, 2013)." This request violates this standard.

Q-TC-06-109:

Reference page 24 of your testimony, why wouldn't it have been prudent for PSNH to support further study of the economics of the project in the fall of 2008?

PSNH objects to this request on the following bases:

- i. Relevance.
- ii. In Order No. 25,566 the Commission stated it saw "no relevance to PSNH's ... involvement in cooperating with the Legislature to pass the Scrubber law."
- iii. In Order No. 25,566, the Commission stated, "PSNH is not responsible for the Legislature's actions, nor for ours."
- iv. In Order No. 25,646 the Commission set forth five discovery standards. Per Standard #3, "Standard Requests for Statements to Legislators or other Governmental Officials" ("Standard #3), the Commission decided, "evidence that proves whether a party was 'cooperating with' or 'attempt[ing] to block' legislation is irrelevant, *Public*

This request is unrelated to the testimony of the witness it was directed to. This question was addressed to Dr. Shapiro. Dr. Shapiro did not testify regarding the subject of this question. Dr. Shapiro's testimony was limited to a presentation of her study, the purpose of which was to provide an estimate of the economic benefits to New Hampshire – jobs, gross state product, and personal income – from the construction of a wet flue gas desulphurization system, commonly called a scrubber, at Merrimack Station. In Order No. 25,646 the Commission set forth five discovery standards. Per Standard #2, "Standard for Requests of a Party Regarding its Witness's Testimony" (Standard #2), the Commission decided, "PSNH also directed questions at parties that are unrelated to the testimony sponsored by those parties. We will generally not compel answers to those requests because they do not seek evidence relevant to that party's witness and they could not provide impeachment evidence."

Q-TC-06-252:

Are you aware of any efforts to change the Scrubber law so that all customers, rather than just default service customers, would have to pay for the Scrubber? (consider, for example, the testimony of Mr. Long to the Legislative Oversight Committee that the scrubber law is unfair because only default service customers must pay for the capital investment). Please list these efforts during each year from 2007 to present, summarize each effort, including communications with legislators and the executive branch, and provide all documentation and communications regarding that effort.

PSNH objects to this request on the following bases:

- i. Relevance.
- ii. This request is unrelated to the testimony of the witness it was directed to. This question was addressed to Dr. Shapiro. Dr. Shapiro did not testify regarding the subject of this question. Dr. Shapiro's testimony was limited to a presentation of her study, the purpose of which was to provide an estimate of the economic benefits to New Hampshire – jobs, gross state product, and personal income – from the construction of a wet flue gas desulphurization system, commonly called a scrubber, at Merrimack Station. In Order No. 25,646 the Commission set forth five discovery standards. Per Standard #2, "Standard for Requests of a Party Regarding its Witness's Testimony" (Standard #2), the Commission decided, "PSNH also directed questions at parties that are unrelated to the testimony sponsored by those parties. We will generally not compel answers to those requests because they do not seek evidence relevant to that party's witness and they could not provide impeachment evidence."