

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

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Concord, New Hampshire

DAY 7
Afternoon Session only

RE: DE 11-250

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PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE:
Investigation of Scrubber Costs and
Cost Recovery.

PRESENT: Commissioner Martin P. Honigberg, Presiding
Special Commissioner Michael J. Iacopino

F. Anne Ross, Esq., General Counsel

Sandy Deno, Clerk

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E X H I B I T S

EXHIBIT NO.	D E S C R I P T I O N S	PAGE NO.
133	Document entitled "Public Service Company of New Hampshire 2009 Energy Service Rate Calculation", also noted as "Attachment RAB-1"	21
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P R O C E E D I N G

1
2 CMSR. HONIGBERG: Before we start with
3 Mr. Chung, just let's circle back to a couple of things
4 that are still outstanding. There's the document that
5 came from Staff right before the hearing started from
6 Jacobs; there's the documents that PSNH located and
7 started circulating at the very end of last week; and
8 there is exhibits, what objections there are to the
9 exhibits that have been marked for identification so far.

10 What still needs to be done and can be
11 done -- or, let me put it a different way. What needs to
12 be done on the record while we're still here regarding the
13 documents issues? Mr. Patch.

14 MR. PATCH: Well, I kind of missed the
15 beginning of the second thing that you said. But we --
16 I'm sorry.

17 CMSR. HONIGBERG: The second thing I
18 said was the documents that PSNH located and started
19 sending out on Friday, I think, and over the weekend.

20 MR. PATCH: Yes. I mean, we still have
21 a number of questions about those documents. And, I think
22 the most useful thing to do would be if the Commission
23 were to keep the docket open for a week or so and allow
24 any post trial or post hearing motions to come in.

1 But I think we still have lots of
2 questions about what we got and what we didn't get. And,
3 I don't know what to do about that. I don't, at this
4 point, see the need to call back Mr. Hachey.

5 CMSR. HONIGBERG: That was the key thing
6 I was looking for right now, is are we going to need to
7 hear from witnesses, as far as we know, based on what we
8 know now? Are we going to need to hear from witnesses
9 regarding any of those topics?

10 MR. PATCH: I don't think so.

11 CMSR. HONIGBERG: Okay. Mr. Bersak, I
12 guess I'll ask you about the document that was the Jacobs
13 document that Staff circulated right before we started the
14 hearings last week. And, I thought there was some
15 possibility that you might want to recall Mr. Smagula to
16 discuss what was in that document?

17 MR. BERSAK: There were some questions
18 related to that document during the course of the hearings
19 over the last two weeks. I don't believe there's a need
20 to identify that or mark it as an exhibit. I don't think
21 it's been marked at this point. We do have a desire to
22 potentially recall Mr. Smagula for two discrete issues
23 that don't involve that document. That involve matters
24 that have been testified to during the course of the

1 hearings these last two weeks. But I think it's not
2 related to the Jacobs study that you're referring to.

3 SP. CMSR. IACOPINO: What are those
4 issues?

5 MR. BERSAK: One is the truck wash. The
6 second is the secondary wastewater treatment system.

7 CMSR. HONIGBERG: I guess we'll cross
8 that bridge when we get to it.

9 MR. BERSAK: Thank you.

10 CMSR. HONIGBERG: And, I guess I'll turn
11 to Ms. Amidon regarding the exhibits. You helpfully
12 identified the exhibits that people had flagged that they
13 might have a problem with. I know that we dealt with some
14 that Ms. Frignoca identified, and we've already dealt with
15 her situation on those documents. What about the others?
16 How are we going to resolve those?

17 MS. AMIDON: Just to bring you
18 up-to-date, I do believe that PSNH filed a correction to
19 Exhibit 99. They did. There is still an outstanding
20 question that Ms. Frignoca had with respect to Exhibit 29,
21 which I think Mr. Irwin has, to determine if it's the
22 correct Synapse report that's referenced there. And, to
23 be honest, we have not talked with the parties on how to
24 resolve the remainder of the exhibits. I don't know --

1 that have objections to them. I don't know what the
2 Commission's wishes are in that regard, if you want to
3 have oral arguments?

4 CMSR. HONIGBERG: Well, I think our
5 wishes are to reduce the number of disputes to the
6 greatest extent possible. So, maybe at the next break,
7 we'll ask you all to caucus on those exhibits and see what
8 is left. And, when we come back, at that time, we'll take
9 up whatever needs to be taken up, with respect to the
10 exhibits. And, I guess, at the end of the presentation of
11 all the other evidence, Mr. Bersak, you'll make your
12 decision about whether you feel you need to call
13 Mr. Smagula and why.

14 Are there any other things we can or
15 should talk about?

16 MR. BERSAK: If I may just correct --

17 CMSR. HONIGBERG: Mr. Bersak.

18 MR. BERSAK: If I may just correct one
19 thing I said earlier. It appears that what's been marked
20 as "Exhibit 60" is, in fact, that Jacobs early termination
21 analysis. And, my notes here, and the notes that we
22 received on our updated list says that "there's going to
23 be additional pages added to complete the document." So,
24 as long as those pages are added to that exhibit, I think

1 we're okay.

2 CMSR. HONIGBERG: All right.

3 MS. GOLDWASSER: Mr. Chairman?

4 CMSR. HONIGBERG: Who's talking? I'm
5 sorry. Yes, Ms. Goldwasser. Sorry about that.

6 MS. GOLDWASSER: I just thought of two
7 other outstanding document-related issues. One of them is
8 that we provided a chart associated with the discovery
9 requests and objections that PSNH was using in its
10 cross-examination of Mr. Hachey.

11 CMSR. HONIGBERG: Uh-huh.

12 MS. GOLDWASSER: And, I think that we
13 owe the Commission an updated chart that we have been
14 working with -- in collaboration with PSNH. But it's not
15 done yet.

16 CMSR. HONIGBERG: Okay.

17 MS. GOLDWASSER: So, I ask for leave to
18 submit that later, after the hearing is over today, or,
19 you know, tomorrow.

20 CMSR. HONIGBERG: All right. I see nods
21 of heads. So, that seems fine.

22 MR. BERSAK: Yes. That's reasonable.

23 MS. GOLDWASSER: And, the other
24 outstanding issue is that the discovery responses that

[WITNESS: Chung]

1 were produced this past fall, in response to TC 6-038.
2 Which are contained in a Redweld, and they recall coal --
3 they regard coal forecasting, never were marked as an
4 exhibit. And, I think we had flagged that to discuss at a
5 later date. And, I just wanted to put that on the list
6 before you.

7 CMSR. HONIGBERG: I recall that Redweld,
8 and I recall being pleased that it wasn't being marked.
9 But I guess no decision -- I guess no decision had been
10 made about whether it needed to be marked. So, I guess
11 that is still outstanding. So, we'll take that up at the
12 next break, I guess, when people have had a chance to
13 think about what needs to be done.

14 Anything else, before we resume with
15 Mr. Chung, who I'm sure remembers precisely the last
16 question and answer that he gave. But is there anything
17 else we need to do?

18 MS. AMIDON: No. I'm all set.

19 CMSR. HONIGBERG: All right. Then,
20 let's get back to Mr. Chung.

21 (Whereupon **Eric H. Chung** was recalled to
22 the stand, having been previously sworn
23 by the Court Reporter.)

24 CMSR. HONIGBERG: Welcome back,

[WITNESS: Chung]

1 Mr. Chung.

2 WITNESS CHUNG: Thank you.

3 CMSR. HONIGBERG: Who was asking
4 questions of Mr. Chung when last we were here?

5 MS. GOLDWASSER: That would be me.

6 CMSR. HONIGBERG: Ms. Goldwasser.

7 **ERIC H. CHUNG, Previously sworn**

8 **CROSS-EXAMINATION (resumed)**

9 BY MS. GOLDWASSER:

10 Q. Mr. Chung, I'm going to try to pick up where we left
11 off. But, just to review, you recall we talked about,
12 about a week ago, we talked about the rate estimates
13 that PSNH had provided at various times during the
14 course of this proceeding at the beginning of our
15 conversation. Do you remember that?

16 A. I think, more specifically, I recall you had given me a
17 discovery response, and I'm looking at, let's see, I
18 think it's TC 06, 01-06, I don't know if I got those
19 numbers right, it's the presentation dated November of
20 '05. Is that what we're referring to?

21 Q. Yes, I was actually backing up even further.

22 A. Okay.

23 Q. Just so that we can remember what we did, before we
24 started with a new thing.

[WITNESS: Chung]

1 A. Sure.

2 Q. And, so, what we did was we talked about the Scrubber
3 rate levels that did not include prior unrecovered
4 deferred Scrubber costs as they were set forth in
5 Mr. Baumann's testimony in June 2012, and then we
6 talked about the rate that you put in your rebuttal
7 testimony dated July 2014. Do you remember that?

8 A. Yes. And, I think, if I'm remembering right, we
9 distinguished between what we were calling "ongoing
10 costs", and then the "deferred costs". I think both of
11 those components were discussed in both Mr. Baumann's
12 testimony and my rebuttal testimony.

13 Q. And, we agreed that some part, some significant part of
14 the difference in the rates that were set forth in the
15 various filings had to do with migration levels. Is
16 that right?

17 A. Yes. That was one of the factors.

18 Q. Now, I'll ask you to turn to TC 1-6, which is
19 Exhibit -- my apologies.

20 CMSR. HONIGBERG: I think it's 70 --

21 MS. GOLDWASSER: Seventy-eight (78)?

22 CMSR. HONIGBERG: -- 79.

23 MS. GOLDWASSER: Seventy-nine (79).

24 BY MS. GOLDWASSER:

[WITNESS: Chung]

1 Q. Are you with me?

2 A. Yes. I have it in front of me.

3 Q. Okay. And, you were looking at Page -- Bates Page 11.

4 A. Okay. I'm there.

5 Q. And, when we last talked, we agreed that you would take
6 a look at this chart and familiarize yourself with it,
7 is that right?

8 A. Yes. I can, as we discussed, this was before my time,
9 I can certainly dialogue with you about this chart.

10 Q. So, there's four lines in the chart. The top line
11 starts at seven-tenths of a cent (0.70) per
12 kilowatt-hour. Do you see that?

13 A. Yes.

14 Q. And, would you agree with me that that line represents
15 the "Mercury only" case?

16 A. It's a little hard to tell, because it's black and
17 white. But I'll accept that. It looks like it's
18 probably the "Mercury only" case.

19 Q. And, then, the three cases shown below are most likely
20 the High Case SO₂, with an assumption of \$1600 per
21 allowance, I presume; a Base Case SO₂, with an
22 allowance price of \$1000; and a Low Case SO₂, with an
23 allowance price of \$600. Does that make sense to you?

24 A. Yes. I'll accept your interpretation. But the shading

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[WITNESS: Chung]

1 looks very similar across the three. But, yes, I'll
2 accept that.

3 Q. Would you agree with the assumption that the Low Case
4 SO₂, in other words, the case where the assumption that
5 the \$600 allowance is the top line of that lower
6 grouping of three lines?

7 A. That would -- if we accept what the lines are intended
8 to represent, that would make sense to me. So, I think
9 we could make that assumption.

10 Q. And, that makes sense because the lower the value of
11 the SO₂ allowances, the higher the rate impact on
12 customers. Is that right?

13 A. That's generally true. So, that would be directionally
14 true. So, I'd accept that.

15 Q. Okay. And, just to further explore it, the idea here
16 is that SO₂ allowances, because the Scrubber decreases
17 the amount of SO₂ emissions by Merrimack Station, the
18 value of the SO₂ allowances would offset in some part
19 the cost to customers of installing the Scrubber?

20 A. I think that's what's represented here.

21 Q. Okay. I believe you have Long -- Mr. Long's deposition
22 in front of you in a binder. And, I'd ask that you
23 turn to Exhibit 9, if it's not turned to that already.

24 A. One moment please. Okay. I have it in front of me.

[WITNESS: Chung]

1 Q. And, this is a report in Docket Number 08-103. And, it
2 actually doesn't say at the top of the page, but is it
3 your understanding that this was submitted on
4 September 2nd, 2008?

5 MR. BERSAK: We can agree to that.

6 BY MS. GOLDWASSER:

7 Q. Can we agree to that?

8 A. I would agree to that.

9 Q. Thanks. And, so, it was submitted after the estimated
10 cost of the Scrubber went from \$250 million to
11 \$457 million, right?

12 A. That seems correct, yes.

13 Q. And, if you turn to Page 14.

14 A. Yes.

15 Q. Paragraph III.C.

16 A. Yes.

17 Q. You can read that to yourself.

18 A. Okay. Give me one moment, I'll read this here.

19 Q. Actually, just the first sentence is sufficient.

20 A. Okay. I've read it.

21 Q. Okay. The first sentence indicates that the estimated
22 rate impact of the Scrubber will be about "one-third of
23 a cent per kilowatt-hour", is that right?

24 A. Yes. What I'm reading here is, without seeing other

[WITNESS: Chung]

1 assumptions that went into that estimate, is that it is
2 that. It is an estimate of "one-third of a cent"
3 listed here.

4 Q. And, then, the next sentence, did you read that one
5 also?

6 A. I didn't.

7 Q. Okay. Why don't you do that.

8 A. Okay. Okay, I've read that.

9 Q. So, the next sentence indicates that "the highest
10 impact would be approximately one-half of a cent in the
11 first year of operation", is that right?

12 A. Yes. That's what it says.

13 Q. Okay. I'm going to ask you to turn to Exhibit 15 of
14 the same deposition. So, it's Exhibit 27-15.

15 A. Okay. I have it in front of me.

16 Q. And, the top of the page indicates "PSNH Newsletter" of
17 "February 12, 2009", is that right?

18 A. That's what it says.

19 Q. And, then, if you look in the third paragraph, in the
20 second sentence it indicates -- I'm sorry, I'm going to
21 start with the first sentence: "Merrimack Station
22 serves about 30 percent of PSNH's customer energy needs
23 for about five (5) cents per kilowatt-hour or up to one
24 half of the volatile market price for energy in New

[WITNESS: Chung]

1 Hampshire." And, then, the next sentence reads: "The
2 Clean Air Act Project will make Merrimack Station one
3 of the cleanest coal plants in the nation, while
4 impacting PSNH's energy service rate by an average of
5 0.33 cents per kilowatt-hour, or about 3 percent." Is
6 that right?

7 A. Yes. That's what it says on the page.

8 CMSR. HONIGBERG: Well, to be precise,
9 it says things close to that. It actually says "New
10 England", not "New Hampshire".

11 MS. GOLDWASSER: My apologies.

12 BY MS. GOLDWASSER:

13 Q. I'm going to ask you to turn to Exhibit 32. And, I've
14 got a copy here that I can bring to you.

15 (Atty. Goldwasser handing document to
16 the witness.)

17 BY MS. GOLDWASSER:

18 Q. And, this is Data Response TC-01-009. And, it
19 indicates that it's providing a copy of documents
20 provided to elected or appointed government officials
21 in New Hampshire related to PSNH's position on SB 152
22 and House Bill 496. Is that right?

23 A. That seems right.

24 Q. Okay. If you turn to Page 4.

[WITNESS: Chung]

1 A. Is it Page 4 of the presentation?

2 Q. It's Page 4 -- it's Page 4 of the data response, and
3 the page numbers are in the upper right-hand corner.

4 A. Okay. Yes.

5 Q. And, if you look at the chart on the lower left-hand of
6 the page, the text in small words under the caption are
7 "Upon completion, the Clean Air Project will add about
8 3/10s of one cent to PSNH's energy charge." Is that
9 right?

10 A. Yes, that's what it -- yes, that's what it says on the
11 page.

12 Q. And, is that what the chart itself shows as well, in
13 the left-hand, the left-hand bar chart?

14 A. It's hard to make out exactly what the size of the bar
15 represents. But it's probably similar to that number.

16 Q. Well, it says "10", "\$10" -- "\$10", excuse me.

17 A. Oh, I see what you're looking at. Yes, I see.

18 Q. So, 10.23 minus 9.92 --

19 A. Yes.

20 Q. -- would be about that three-tenths, is that right?

21 A. Yes, that's probably about right. Yes.

22 Q. And, I think we've heard testimony throughout this
23 proceeding that documentation about SB 152 would likely
24 be around March of 2009. Is that your recollection?

[WITNESS: Chung]

1 A. I'm not an expert on the dates, but that sounds about
2 right.

3 Q. If you turn to Page -- it's Page 16 of that same data
4 response, the identical chart to the one we were just
5 discussing was also provided in a presentation, is that
6 right?

7 A. Give me one moment, I'll flip to that page. You said
8 "Page 16"?

9 Q. Yes.

10 A. Yes. That looks to be the same chart as the one we
11 just discussed. Or, a very similar chart, I should
12 say.

13 Q. So, based on the documents that we just looked at, it
14 appears as though PSNH provided the Legislature with
15 the same rate impacts resulting from the Scrubber in
16 March 2009 as the rate impacts that PSNH provided to
17 the Public Utilities Commission in September 2008.
18 Does that sound right to you?

19 A. Can you rephrase the question please?

20 Q. Sure. So, we looked at, basically, to two sets of
21 documents. The first one was the packet that was
22 submitted on September 2nd, 2008. And, it indicated
23 that the rate impact of the Project, on average, would
24 be three-tenths of a cent. Remember that?

[WITNESS: Chung]

1 A. Yes. I remember that.

2 Q. And, then, we looked at a newsletter from February 2009
3 that indicated that the rate impact would be about
4 three-tenths of a cent.

5 A. Yes.

6 Q. And, then, we looked at a presentation that, you know,
7 that is from around March 2009 that also indicates that
8 the rate impact would be three tenths of a cent. Do you
9 remember that?

10 A. Yes.

11 Q. So, it seems as though PSNH gave the same rate impacts
12 in September 2008 as later on in February and
13 March 2009?

14 A. Yes. It seems like all of those numbers are in the
15 same ballpark. I mean, one thing I'm seeing in a lot
16 of these documents is that they are estimates. And, I
17 know a lot of market dynamics were changing, whether
18 it's environmental regulations, or migration numbers.
19 So, I think those are intended to be estimates. But
20 I'm not familiar with the calculations themselves.

21 Q. Did you hear the evidence yesterday that I think Mr.
22 Large testified that the assumption that was made in
23 preparing the Summer 2008 rate analysis was that demand
24 would be about 87 million kilowatt-hours?

[WITNESS: Chung]

1 A. Subject to check, I don't recall the exact number. But
2 you said "87 million kilowatt-hours"?

3 Q. Yes. Someone can correct me, if I'm wrong.

4 MS. GOLDWASSER: I'm asking Attorney
5 Patch to hand around a filing that PSNH made in the Energy
6 Service docket for 2009 on December 2nd, 2008.

7 (Atty. Patch distributing documents.)

8 MS. DENO: This is going to be "133".

9 CMSR. HONIGBERG: This is going to be
10 "133".

11 (The document, as described, was
12 herewith marked as **Exhibit 133** for
13 identification.)

14 BY MS. GOLDWASSER:

15 Q. Do you see that that's "Attachment RAB-1", dated
16 December 2nd, 2008, and it says "Public Service Company
17 of New Hampshire 2009 Energy Service Rate Calculation"?

18 A. Yes. That is what it says at the top.

19 Q. And, on Page -- excuse me, on Line 35 of that first
20 page, does it indicate what PSNH was forecasting for
21 retail sales for 2009?

22 A. Yes. That's -- it says 7 -- approximately 7.4
23 megawatt-hours sales. I will say, just having some
24 context with the Energy Service rate, that this, when

[WITNESS: Chung]

1 this is filed, it's still a forecast. And, if numbers
2 are cited from earlier in the year, that's also a
3 forecast. So, you know, it's not surprising that
4 they're not the same number.

5 Q. And, what you're doing is you're comparing the 8.7 with
6 the 7.4?

7 A. Yes. I don't know if I was jumping ahead, but I --

8 Q. No, that's okay. I just wanted to make sure I knew
9 what you were talking about.

10 A. That's what I was doing.

11 Q. And, if you were doing a rate assessment or a new rate
12 estimate, would you agree that the difference between
13 8.7 megawatt-hours in sales and 7.4 megawatt-hours in
14 sales could impact the estimate of what the impact on
15 customers would be?

16 A. It could. The good thing about the structure of the ES
17 rate is that it's fully reconciled and trued up in a
18 mini-prudency docket. So, I think those actuals are
19 looked at closely, as well as the costs.

20 Q. That's about a 15 percent reduction, right?

21 A. I can, subject to check, I actually have a calculator
22 up here. Yes. I would accept that.

23 Q. And, the other thing we learned was that Mr. Large used
24 an estimate of \$500 per SO2 allowance in his rate

[WITNESS: Chung]

1 impact assessment. Do you remember that?

2 A. Yes. That sounds about right.

3 Q. And, this morning, Drs. Harrison and Kaufman testified
4 that they used a number around 50, I believe, for their
5 Winter 2009 analysis. Do you remember that?

6 A. Yes. And, while I'm not an expert on those types of
7 markets, I mean, I think, just anecdotally, I would --
8 I'm sort of hearing that those analyses were done at
9 two different points. So, the \$50 versus the \$500 were
10 two different points in time. It wouldn't surprise me
11 that those numbers are different.

12 MS. GOLDWASSER: I'm asking Attorney
13 Patch to hand out PSNH's response to Data Request TC
14 02-004.

15 (Atty. Patch distributing documents.)

16 CMSR. HONIGBERG: This will be "134".

17 (The document, as described, was
18 herewith marked as **Exhibit 134** for
19 identification.)

20 BY MS. GOLDWASSER:

21 Q. And, the request is "Is it true today that the costs of
22 the Scrubber Project will be fully mitigated by the
23 savings in SO2 allowances?" Is that right?

24 A. That's what it says on the page.

[WITNESS: Chung]

1 Q. And, the first -- PSNH objected. And, notwithstanding
2 that objection, the first sentence reads "It is
3 impossible to predict what the value of SO2 allowances
4 will be in the future." Is that right?

5 A. That's what it says.

6 Q. I'm going to ask you to turn to Exhibit 12 to the Long
7 deposition, which is Exhibit 27-12.

8 A. "Exhibit 12" you said?

9 Q. Yes.

10 A. Yes. I have that in front of me.

11 Q. If you look on Page 3.

12 A. Yes. Actually, I'm not sure this has page numbers.

13 Q. Yes.

14 A. Could you describe what's on the page.

15 Q. I might be looking at the wrong page also. Just give
16 me a moment here.

17 A. Sure.

18 Q. Look on Page 3 of the Technical Session data request,
19 at the upper -- sort of the upper right-hand corner --

20 (Court reporter interruption.)

21 CMSR. HONIGBERG: "Upper right-hand
22 corner, sort of, of the page."

23 BY MS. GOLDWASSER:

24 Q. Upper right-hand corner. It says "Q-TECH-001 Page 3 of

[WITNESS: Chung]

1 4".

2 A. Yes. I think I have that in front of me. It's got the
3 heading -- the subheading "Merrimack Scrubber O&M,
4 Depreciation and Taxes" on Line 11?

5 Q. Yes.

6 A. Okay.

7 Q. So, Line 15 is the "Merrimack Scrubber Avoided SO2
8 costs"?

9 A. Yes.

10 Q. And, that would be the cost of -- or, the savings
11 really associated with the Scrubber with respect to SO2
12 allowances?

13 A. I think that's a fair characterization.

14 Q. Okay. And, can you make out that number?

15 A. Which number are you looking at?

16 Q. The "total" on Line 15. And, we can do that subject to
17 check. We don't have to be real exact here, for my
18 purposes.

19 A. It's hard to tell. Looks like a negative "2." --
20 "2.874 million". But it's a little hard to read.

21 Q. And, I'll accept that. That's fine for my purposes.
22 It's 2. something -- it's 2. something million in
23 savings, is that right?

24 A. Yes.

[WITNESS: Chung]

1 Q. Okay.

2 A. I'm smiling because there was a magnifying glass
3 offered.

4 Q. Can all be a little Inspector Gadget here. What's the
5 rate of return that PSNH is proposing to earn on
6 Merrimack Station?

7 A. When you say "rate of return", what are you referring
8 to? Do you mean the "weighted average cost of capital"
9 or do you --

10 Q. The return on equity.

11 A. Oh. So, embedded in our weighted average cost of
12 capital is a return on equity, and that is the approved
13 -- approved 9.81 percent.

14 Q. And, is that, once an expenditure is approved, if the
15 Company doesn't recover enough in one year to meet that
16 amount, can it receive the under recovery in the next
17 year?

18 A. I'm not sure I understand the -- I may not follow the
19 question. Can you say it a different way?

20 Q. Sure. So, say, in one year, the Company has earned an
21 ROE of \$100, but it only collects enough for 90. In
22 the next year, would it be able to collect the under
23 recovery to meet their return on equity?

24 MR. BERSAK: It may be helpful if we

[WITNESS: Chung]

1 have some more definition to the question.

2 Ms. Goldwasser, are you talking about the
3 generation/energy service portion of PSNH's business or
4 are you talking about its distribution rates or just in
5 general?

6 MS. GOLDWASSER: I'm talking about the
7 return on equity that the Company would earn on Merrimack
8 Station's investment -- on the investment in Merrimack
9 Station.

10 CMSR. HONIGBERG: Mr. Chung, why don't
11 you -- do you understand the question that she's asking?

12 WITNESS CHUNG: I don't, because I
13 don't -- it's not my understanding that it works that way.
14 So, that's why I'm struggling to answer the question.

15 BY MS. GOLDWASSER:

16 Q. Why don't you explain the way it works.

17 A. Well, the way -- so, in our generation docket, we do an
18 estimate of the costs, plus the return on rate base,
19 that would go into the cost of service for the
20 following year. And, we reestimate that halfway during
21 the year, and then we do a full reconciliation docket
22 at the close of that year, to assure all parties
23 involved that the cost of service was made up of
24 prudent costs and operations. So, there's not the kind

[WITNESS: Chung]

1 of dynamic that you're describing. It's more like we
2 have an input and a prudence true-up. So, I'm not sure
3 if that -- I'm not sure if that helps.

4 Q. Okay. Let me try another way then, because I think you
5 just answered my question. If the Company estimates
6 the amount it's supposed to recover, once an
7 expenditure is determined to be prudent, and the amount
8 collected isn't enough, it trues up later on via
9 reconciliation? No?

10 A. Well, yes, the reason I'm struggling with that is, it's
11 just a little more straightforward than that. It's
12 just we, you know, in the Energy Service docket,
13 there's a rate, a weighted average cost of capital that
14 we use to generate the return. And, then, we simply do
15 a reconciliation as part of a true-up docket. So, I
16 don't know if I'm -- I don't know if I'm
17 misinterpreting the question, but it just -- it seems
18 like it works in a different direction than I think
19 you're implying.

20 Q. It's reconciled?

21 A. It's fully reconciled.

22 Q. It's reconciled, okay. I think we can agree there.

23 A. Yes.

24 Q. Do you know what the annual return on rate base for

[WITNESS: Chung]

1 Merrimack Station is expected to be?

2 A. I don't have that in front of me.

3 Q. You don't?

4 A. I don't have a sense of it.

5 MS. GOLDWASSER: I will withdraw that
6 question. I have no further questions.

7 CMSR. HONIGBERG: Mr. Irwin, do you have
8 any questions?

9 MR. IRWIN: No questions.

10 CMSR. HONIGBERG: Mr. Fabish, do you
11 have any questions?

12 MR. FABISH: No questions.

13 CMSR. HONIGBERG: Commissioner Iacopino?

14 SP. CMSR. IACOPINO: No questions.

15 CMSR. HONIGBERG: And, I have no
16 questions. Do you have any redirect, Mr. Bersak?

17 MS. AMIDON: Staff?

18 CMSR. HONIGBERG: I'm sorry, Staff
19 hadn't gone yet?

20 MS. AMIDON: No.

21 CMSR. HONIGBERG: Oh, I'm sorry.

22 MS. AMIDON: It's okay.

23 CMSR. HONIGBERG: I thought you had gone
24 already. It's been so long.

[WITNESS: Chung]

1 MS. AMIDON: Did we go?

2 (Witness Chung nodding in the
3 affirmative.)

4 MS. AMIDON: Okay. Well, I guess, you
5 know, if I had read the transcript, I'd know. Apologize.

6 MR. BERSAK: They did go?

7 CMSR. HONIGBERG: Yes, you did go.

8 MS. AMIDON: It's so long ago.

9 WITNESS CHUNG: It's been a while, I
10 recognize that.

11 MR. BERSAK: He's one of the friendly
12 witnesses.

13 CMSR. HONIGBERG: All right. Let me
14 circle back then. Everybody has asked their questions on
15 round one, correct?

16 (No verbal response)

17 CMSR. HONIGBERG: Good. Thank you. Mr.
18 Bersak, do you have any redirect?

19 MR. BERSAK: Yes, I do, Commissioner
20 Honigberg. Thank you.

21 CMSR. HONIGBERG: And, I think it's
22 going to be based on Ms. Amidon's cross. So, maybe we
23 will -- no, I'm sorry.

24 **REDIRECT EXAMINATION**

[WITNESS: Chung]

1 BY MR. BERSAK:

2 Q. Mr. Chung, you were referred to Exhibit 79, which was a
3 response to a data request by PSNH to TransCanada's
4 Question 1, Number 6. Do you recall that?

5 A. Yes, I do.

6 Q. And, you were asked in that question about certain
7 sulfur dioxide credits and their impact on rates. Do
8 you recall that?

9 A. Yes.

10 Q. Can you tell us what the date of that report was that
11 you were referred to?

12 A. Yes. It's -- just give me one moment. Yes. On the
13 front of the presentation, it says "November 2005".

14 Q. You were also asked a series of questions regarding an
15 estimated impact of the Scrubber on customer rates of
16 three-tenths of a cent per kilowatt-hour. Do you
17 recall those questions?

18 A. Yes.

19 Q. Is it expected that the rate to recover the costs of
20 the Scrubber will remain constant in customer bills
21 throughout the entire depreciable book life of that
22 asset?

23 A. No, it's not.

24 Q. So, when there are references to a number like

[WITNESS: Chung]

1 "three-tenths of a cent per kilowatt-hour", is that an
2 average or what is that?

3 A. It depends on the context. It could be an average, it
4 could be a different point in time. It could be any
5 number of things. And, it seems, in these documents,
6 it was not always specified.

7 Q. As the Scrubber costs on PSNH's books are amortized
8 over the life of that asset, is it expected in your
9 experience that the rate will go up or go down as time
10 goes on?

11 A. It will go down as time goes on, due to a reduction in
12 rate base.

13 MR. BERSAK: Thank you.

14 CMSR. HONIGBERG: Thank you, Mr. Chung.

15 WITNESS CHUNG: Thank you.

16 CMSR. HONIGBERG: Are we ready for

17 Dr. Shapiro, finally? Dr. Shapiro, come on down.

18 (Whereupon **Lisa K. Shapiro** was duly
19 sworn by the Court Reporter.)

20 CMSR. HONIGBERG: Mr. Glahn.

21 MR. GLAHN: Dr. Shapiro, it's my
22 understanding, --

23 WITNESS SHAPIRO: Yes.

24 MR. GLAHN: -- although I rarely appear

[WITNESS: Shapiro]

1 before the PUC, that they always save the most important
2 witness for last. So, let me ask you a few questions.

3 **LISA K. SHAPIRO, SWORN**

4 **DIRECT EXAMINATION**

5 BY MR. GLAHN:

6 Q. Could you briefly describe your educational background
7 and your work experience.

8 A. Excuse me. Yes. I have -- my educational background
9 is a Ph.D in Economics from Johns Hopkins University,
10 and a Master's Degree in Resource Economics. And, I've
11 been in regulated industries, advising businesses and
12 constitutions for over 20 years. I do a significant
13 amount of work with energy, clients involved in energy,
14 but also in other regulated industries. And, I prepare
15 studies, as well as work on strategic issues, and
16 lobbying.

17 Q. By who are you currently employed?

18 A. Gallagher, Callahan & Gartrell.

19 Q. And, have you submitted written prefiled testimony in
20 this case dated July 11, 2014?

21 A. Yes.

22 Q. You should have a document there, "Rebuttal Testimony
23 of Lisa K. Shapiro, Ph.D", I think we've marked that as
24 "Exhibit 25", and it should be seven pages in length.

[WITNESS: Shapiro]

1 Do you have that with you?

2 A. Yes, I do.

3 Q. Do you have any corrections to that testimony?

4 A. Yes. There were two minor typographical corrections
5 on -- would you like me to --

6 Q. Yes. Just not them for the Commission please.

7 A. Yes. On Page 1, the address is "214", not "4". And,
8 on Page 3, Line 14, the word "among" was dropped in
9 that version, and that goes between "faced" and --

10 (Court reporter interruption.)

11 **BY THE WITNESS:**

12 A. "Among".

13 MR. BERSAK: "Faced among" was the
14 second word.

15 **BY THE WITNESS:**

16 A. Between "faced" and "the".

17 BY MR. GLAHN:

18 Q. And, do you adopt that testimony as your testimony in
19 this proceeding?

20 A. I do.

21 Q. Are there four attachments that you filed with your
22 prefiled testimony?

23 A. Yes, I did.

24 MR. GLAHN: And, I think we've marked

[WITNESS: Shapiro]

1 these attachments as "Exhibits 25-1" to "25-4". And, I'd
2 note for the record that there was a portion of
3 Dr. Shapiro's testimony that was stricken. And, in the
4 copy that's been provided, it has been stricken.

5 BY MR. GLAHN:

6 Q. It's my understanding you have a brief statement at the
7 outset, Dr. Shapiro, is that right?

8 A. Yes, I do.

9 Q. Would you just go ahead and make that statement please.

10 A. Sure. In 2009, the Legislature was considering a pair
11 of bills that would have changed the Scrubber Law.
12 And, it was a result of changing economic conditions,
13 most notably the estimated price of the Scrubber.
14 Because the Scrubber Law included statutory public
15 interest findings, I was asked by PSNH to investigate
16 and prepare a study on the economic impacts of the
17 construction phase of the Project. I prepared a
18 12-page report titled "The Economic Impacts of
19 Constructing a Scrubber at Merrimack Station". That's
20 dated March 13th, 2009.

21 As a result of my investigation, I found
22 that PSNH's multiyear investment in the Scrubber was
23 estimated to have a significant impact on jobs and the
24 economy during a time when New Hampshire was facing

[WITNESS: Shapiro]

1 among the highest unemployment rates and some difficult
2 times. I found an estimated 800 to 1,200 jobs would be
3 supported during the construction phase.

4 I presented my study to the Legislature
5 on March 13th, 2009, regarding a hearing on Senate Bill
6 152, which was not enacted. On the House side, the
7 other bill, as has been discussed, was introduced in
8 Science, Technology and Energy. And, in the Final
9 Majority Report that was published, it was recommended
10 "inexpedient to legislate". And, in the Majority
11 Report coming out of the Science & Technology
12 Committee, it pointed to the potential loss of several
13 hundred short and long-term jobs related to the
14 construction and operation of the Scrubber as one of
15 the reasons why the Legislature decided not to change
16 the Scrubber Law.

17 That concludes my opening statement.

18 MR. GLAHN: Dr. Shapiro is available for
19 cross-examination.

20 CMSR. HONIGBERG: Ms. Amidon?

21 MS. AMIDON: Staff has no questions.

22 CMSR. HONIGBERG: Ms. Chamberlin?

23 MS. CHAMBERLIN: Thank you. Good
24 afternoon.

[WITNESS: Shapiro]

1 WITNESS SHAPIRO: Good afternoon.

2 **CROSS-EXAMINATION**

3 BY MS. CHAMBERLIN:

4 Q. You are a lobbyist for PSNH, correct?

5 A. I am registered to lobby for PSNH, yes.

6 Q. And, you also filed public interest testimony in
7 support of the Laidlaw Berlin Biomass Plant contract,
8 yes?

9 A. Yes, I did.

10 Q. And, you used the same methodology for projecting
11 economic benefits?

12 A. The economic benefits there were focused both on the --
13 that I estimated looked at both the construction and
14 the operation phase. In the study that I did on the
15 Scrubber, I was just looking at the construction phase.

16 Q. And, for the Laidlaw Project, you have not gone back to
17 determine if your projections were accurate, is that
18 correct?

19 A. Not specifically. I certainly recall seeing in the
20 press that there were several hundred jobs that have
21 been identified in a number of different areas. But I
22 have not gone back and specifically compared.

23 Q. It's not your practice to do an update of the study to
24 see what happened after-the-fact?

[WITNESS: Shapiro]

1 A. Generally not. Unless it's something that I'm involved
2 in for a long term.

3 MS. CHAMBERLIN: Thank you. That's all
4 I have.

5 CMSR. HONIGBERG: Mr. Patch or Ms.
6 Goldwasser?

7 MS. GOLDWASSER: Hi, Dr. Shapiro. You
8 know me. I'm Rachel Goldwasser, at the law firm of Orr &
9 Reno, here on behalf of TransCanada. I just have a couple
10 of questions.

11 BY MS. GOLDWASSER:

12 Q. Your study only considered the construction phase of
13 the Project, and didn't consider any other job-related
14 impact of the Project, is that right?

15 A. That's correct. There was a number of public interest
16 issues that were being talked about. And, it was a
17 limited amount of time. And, I had data available.
18 So, I was able to quickly be able to look at the
19 construction phase and contribute that type of
20 analysis. I considered some other concepts, it would
21 just take too much time.

22 Q. So, you didn't look into any job impacts from a rate
23 increase associated with the Scrubber construction?

24 A. Well, nor a rate decrease. I didn't look at the rate

[WITNESS: Shapiro]

1 impacts, no.

2 Q. But you've done that before, though, or you've done
3 that since then in other contexts, right?

4 A. To look at the impact of the rate -- of a rate change
5 on jobs? I'm not sure. I don't remember whether the
6 one with the Berlin Biomass Plant got into that on Q&A
7 or whether the original study on that, I just don't
8 recall.

9 MS. GOLDWASSER: No further questions.

10 CMSR. HONIGBERG: Mr. Irwin?

11 MR. IRWIN: I have no questions.

12 CMSR. HONIGBERG: Mr. Fabish?

13 MR. FABISH: Just one or two questions.

14 BY MR. FABISH:

15 Q. So, your study, it does not look at any other
16 alternatives, other than just economic impacts from the
17 Scrubber Project at the price estimated at the time you
18 did the study?

19 A. At the time I did the study, it was in the legislative
20 session that was looking at a broad range of public
21 interests. There was testimony provided by numerous
22 groups on health benefits, long-term jobs, renewables,
23 price impacts. And, I focused on the one specific
24 area, construction, construction phase.

[WITNESS: Shapiro]

1 MR. FABISH: Okay. That's it. Thank
2 you.

3 CMSR. HONIGBERG: Commissioner Iacopino?

4 SP. CMSR. IACOPINO: No questions.

5 CMSR. HONIGBERG: I have no questions.

6 Mr. Glahn, do you have any redirect?

7 MR. GLAHN: Just one, one or two.

8 **REDIRECT EXAMINATION**

9 BY MR. GLAHN:

10 Q. Were the jobs that you identified in your report what
11 might be called "shovel-ready" jobs? That is, they
12 were jobs that would have been available right then?

13 MS. GOLDWASSER: This isn't --

14 CMSR. HONIGBERG: You can answer.

15 WITNESS SHAPIRO: There's more than one
16 people talking.

17 CMSR. HONIGBERG: You can answer.

18 WITNESS SHAPIRO: Thank you.

19 **BY THE WITNESS:**

20 A. Yes. Absolutely. That was the -- the construction was
21 ready to go, as I understood it. And, they would be in
22 the field immediately. So, when we were looking at
23 modeling, unlike some of the other studies and talking
24 about something in 2013 or something farther down the

[WITNESS: Shapiro]

1 road, it was right at that time frame.

2 BY MR. GLAHN:

3 Q. And, what do you -- did you use the term "shovel-ready"
4 in your report? I've forgotten.

5 A. I don't know if I used it in my report. It was
6 certainly a common term that I may have said it. I
7 don't know.

8 CMSR. HONIGBERG: Ms. Shapiro, hang on
9 just a minute. Mr. Glahn, did anybody cross-examine her
10 on this?

11 MR. GLAHN: I think -- I think they
12 asked the question, you know, "is this just during the
13 construction phase?" And, I have no other questions,
14 other than this one. So, --

15 CMSR. HONIGBERG: I'm pretty sure every
16 attorney asked her to confirm that she was just talking
17 about the construction phase, and I'm pretty sure she
18 confirmed it for each one of them.

19 MR. GLAHN: Let's leave it there.

20 CMSR. HONIGBERG: Thank you. I think
21 we're done.

22 WITNESS SHAPIRO: Okay.

23 CMSR. HONIGBERG: All right. I
24 appreciate it, Dr. Shapiro. So, you can -- you can stand

1 down. Are we done with witnesses?

2 MR. BERSAK: Perhaps.

3 CMSR. HONIGBERG: All right. So, what
4 we're going to do then is --

5 SP. CMSR. IACOPINO: Really?

6 MS. AMIDON: Perhaps?

7 CMSR. HONIGBERG: What we're going to do
8 is take a break, because I know Mr. Bersak needs to think
9 about whether there's a need to recall a witness. And, I
10 think you also can have some further discussion about the
11 other issues we've talked about before we resumed with
12 Mr. Chung.

13 So, why don't we give you guys a bit to
14 talk about that. It's 25 minutes to 3:00 right now.
15 We'll come back at 3:00, or earlier, if you let us know
16 that you're ready. All right?

17 MS. AMIDON: Okay.

18 CMSR. HONIGBERG: Thank you, all.

19 (Recess taken at 2:37 p.m. and the
20 hearing resumed at 3:05 p.m.)

21 CMSR. HONIGBERG: So, who wants to
22 start? Ms. Amidon, you have a smile on your face --

23 MS. AMIDON: Yes.

24 CMSR. HONIGBERG: -- and a microphone in

1 front of you.

2 MS. AMIDON: Thanks. I'm happy to
3 report that we've agreed that all the identifications can
4 be stricken and the exhibits introduced as evidence, with
5 the exception of 18-8, which was related to withdrawn
6 testimony by the OCA, and the continued review of
7 Exhibit 29 by CLF. CLF, and I will just explain why CLF
8 originally reserved 29, and then decided were not going to
9 introduce it. So, we just want to make sure that the
10 correct copy of the Synapse report is used for Exhibit 29.
11 Otherwise, everything is in.

12 CMSR. HONIGBERG: I think what really is
13 going on is it's a different -- well, is it that something
14 can be marked as "Exhibit 29", a Synapse -- the Synapse
15 report that was used here?

16 MS. AMIDON: Yes.

17 CMSR. HONIGBERG: And, it's either the
18 same thing that CLF had wanted to premark or it's not.
19 But, regardless, we can keep that one as "29"?

20 MS. AMIDON: Correct.

21 CMSR. HONIGBERG: Okay. Ms. Goldwasser.

22 MS. GOLDWASSER: I'm sorry, I have a
23 couple of caveats. We agreed with PSNH that we would look
24 at the documents, the TransCanada documents that they

1 used, some of which are in partial form. They would
2 provide us what they have, so that we can look at the full
3 form, to the extent they have it. And, that some of those
4 documents may be replaced with a more complete document,
5 because in certain cases they only presented a page or
6 two.

7 CMSR. HONIGBERG: Right. Okay.

8 MS. GOLDWASSER: With respect to I
9 believe it's Exhibit 99, we're still obtaining a full copy
10 of the legislative history document that was associated
11 with that, and that may also be replaced.

12 CMSR. HONIGBERG: Yes. I still have 99
13 set aside here, and I know it needs to be made complete.

14 MS. GOLDWASSER: Yes.

15 MR. GLAHN: Could I just comment on
16 those two things? I didn't understand. So, what I had
17 understood, and perhaps it's what Ms. Goldwasser said, was
18 just they're going to let me know which of those exhibits
19 they want the whole exhibit on, as opposed to what is
20 currently in, on the things that I marked through Mr.
21 Hachey.

22 On 99, yesterday I gave Ms. Amidon the
23 first, that's what -- let me explain what we did. I asked
24 my librarian to go to the State Archives, get the whole

1 document. And, it looks like the only pages that were
2 missing from the document were pages 1 through 4. So, I
3 gave those to Ms. Amidon yesterday, and they have been
4 given, those are now inserted within the exhibit that is
5 in evidence. So, I think that's right, and I'm --

6 CMSR. HONIGBERG: I think Ms. Amidon may
7 disagree. Let's see if we can clarify this quickly.

8 MS. AMIDON: Let me just say, PSNH,
9 through Mr. Bersak, has agreed to provide a correct copy
10 of Exhibit 99. So, Exhibit 99 can be admitted as
11 evidence, but he is going to provide the correct copy, and
12 he and I had a discussion about that.

13 CMSR. HONIGBERG: I don't know. Well,
14 you guys work it out.

15 MR. GLAHN: I don't mean to criticize
16 Mr. Bersak, but I don't think I have any pages, other than
17 the ones -- I gave the originals of the pages I had to
18 them.

19 CMSR. HONIGBERG: I think you guys are
20 going to be able to figure that one out without us.

21 MR. BERSAK: Yes.

22 CMSR. HONIGBERG: So, we'll assume that
23 99 is going to get fixed in the official record and when
24 it makes its way through to us. And, that Mr. Glahn and

1 Ms. Goldwasser will also figure out what needs to be done
2 with some of those TransCanada documents.

3 So, Ms. Amidon, with those limitations,
4 what you're saying is that everything that's on the --
5 that's been marked as an exhibit can have the ID struck
6 and they will be full exhibits?

7 MS. AMIDON: Correct.

8 CMSR. HONIGBERG: All right. Next
9 issue, recall of witnesses. Mr. Patch.

10 MR. PATCH: Well, I think there are sort
11 of two issues associated with this. One, we referred to
12 before, with regard to the discovery that we received last
13 Friday and on Monday. And, we still have a number of
14 questions associated with that. We think we can cover
15 them in a motion, in a written motion we think would be
16 the best, rather than trying to do it orally today. But
17 we don't think that we would need to recall a witness on
18 those. But we're not convinced we have everything that
19 should have been provided in response to the data
20 requests.

21 Second issue, and, again, we'd be happy
22 to put this in a written motion, but it's essentially a
23 motion to strike the portion of Mr. Large's testimony
24 yesterday that was not in his rebuttal testimony,

1 associated with what he verbally told -- he said he told
2 the Staff and the Consumer Advocate at that meeting. Mr.
3 Hachey raised that issue in his December testimony. We
4 sought discovery from Staff about that issue. And, in
5 July, PSNH filed rebuttal testimony, and included nothing
6 about that in there. If they had, we would have been able
7 to do discovery on that.

8 There's a Rule 203.06 that says that
9 "written testimony is supposed to include relevant facts",
10 and that was not included. They clearly knew it was
11 relevant. And, so, we think that ought to be struck.
12 And, so, we can file a written motion about that, too.
13 But we think that's fundamentally unfair and contrary to
14 Commission rules.

15 CMSR. HONIGBERG: Okay. So, we'll --
16 maybe someone will have something to say about that, not
17 substantively this moment, but we're talking process.

18 Mr. Bersak, do you have any need to
19 recall a witness?

20 MR. BERSAK: Yes, we do, Commissioner
21 Honigberg. We would request the opportunity to recall
22 Mr. Smagula for those two issues that I discussed earlier.
23 One that has to do with the construction of the truck wash
24 facility as part of the Scrubber Project, and the second

1 has to do with the secondary wastewater treatment system.

2 CMSR. HONIGBERG: Does anyone have any
3 comments or objections to recalling those witnesses? Yes,
4 Ms. Chamberlin.

5 MS. CHAMBERLIN: I object to recalling
6 the witnesses. Both those issues were covered
7 extensively. Everybody had an opportunity for direct and
8 cross. And, we really don't need to go there again. He
9 hasn't specified anything that went beyond testimony that
10 was improper or anything like that. There's really no
11 reason to bring the witness back.

12 CMSR. HONIGBERG: Does anyone else want
13 to object?

14 (No verbal response)

15 CMSR. HONIGBERG: Mr. Bersak, why should
16 we allow you to recall Mr. Smagula on those two issues?

17 MR. BERSAK: Because, under this
18 Commission's rules, as the party with the burden of proof,
19 we have the right to begin and conclude any portion of any
20 proceeding before this body. Mr. Smagula was not just a
21 direct witness, but also a rebuttal witness. For the
22 convenience of the parties, he did his direct and rebuttal
23 at the beginning of this process. And, then, we had 12 or
24 13 witnesses in between. There are certain matters which

1 he couldn't have addressed really or respond to, because
2 they hadn't occurred yet. And, there's a few things in
3 the record we'd like to straighten out.

4 CMSR. HONIGBERG: I would like you to
5 make an offer as to what he would respond to and how, that
6 happened after he testified that he did not already
7 testify to, because I know he testified on both topics.

8 MR. BERSAK: Yes, he did. And, with
9 respect to the truck wash, there was testimony that the
10 investment in the truck wash should not be entitled to a
11 return, because the Company is no longer receiving or has
12 not recently received coal from Venezuela at its
13 deep-water port in Portsmouth. I would be asking Mr.
14 Smagula whether there are -- the deep-water port in
15 Portsmouth at our Schiller plant is used for coals other
16 than Venezuelan that have been delivered to Merrimack
17 Station, and his answer would be yes. And, I would ask
18 him that coal gets from the deep-water port to Bow, and he
19 would say "by truck". I would ask him "when do we use
20 that port?" And, he would say "when the coal that we can
21 receive by water is more economic than getting the coal
22 from some other source in order to benefit customers."

23 We would ask whether he was involved
24 with the Town of Bow regarding the permits and approvals

1 necessary to move forward with the Scrubber Project, and
2 he would say in the affirmative. And, he would also
3 testify that truck traffic in Bow was a significant
4 concern, and that they were very keen on reducing the
5 amount of truck traffic, whether it was for bringing in
6 coal, bringing out gypsum, or the removal of wastewaters
7 from the plant.

8 CMSR. HONIGBERG: I know that those last
9 two questions and answers were already covered.

10 MR. BERSAK: Okay.

11 CMSR. HONIGBERG: What else do you got?

12 MR. BERSAK: When, and with respect to
13 the situation with respect to the Venezuelan coal, when
14 did we -- when did the current cessation of purchases
15 occur, and he would say "it happened roughly at the time
16 that Hugo Chavez socialized the coal mines down in
17 Venezuela, which occurred subsequent to the design and
18 building of the truck wash. And, that the need for coals
19 have changed subsequent to the building of the Scrubber,
20 because the Scrubber itself is performing at a level far
21 better than one could have hoped with the removal of the
22 emissions of sulphur, such that it gives us more
23 flexibility in our coal supplies, therefore, we can get
24 coals more economical elsewhere right now, and not need to

1 bring them in by barge to our port in Portsmouth.

2 MS. CHAMBERLIN: Your Honor, if I may
3 respond?

4 CMSR. HONIGBERG: Sure.

5 MS. CHAMBERLIN: One, some of that
6 information should have been provided through an update of
7 a data request, because we had an outstanding data
8 request. And, two, the testimony that we provided on the
9 truck wash was filed as prefiled testimony. So, if there
10 was more stuff about the truck wash that he wanted to
11 introduce, he had every opportunity to do so. This wasn't
12 a surprise witness on the stand. He had the testimony, he
13 could have put in all the evidence on the truck wash that
14 he wanted to.

15 CMSR. HONIGBERG: We're going to caucus
16 on this one for a few minutes outside, and then we'll come
17 back in.

18 MR. BERSAK: Do you want me to do the
19 second issue while you're caucusing --

20 CMSR. HONIGBERG: Oh, I thought --
21 (Multiple parties speaking at the same
22 time.)

23 CMSR. HONIGBERG: Yes, I apologize. I
24 forgot about you had a second issue, yes.

1 MR. BERSAK: The second one was the
2 secondary wastewater treatment system. There was evidence
3 or discussion with the witnesses from Jacobs regarding
4 the -- their recommendation that the installation of the
5 secondary wastewater treatment system was prudent, they
6 were asked about whether they were aware that the
7 secondary wastewater treatment system was not bringing
8 the --

9 MS. AMIDON: Effluent.

10 MR. BERSAK: -- effluent level down to
11 zero, and they said -- thank you -- and they said "no,
12 they were not aware of that." I was going to discuss with
13 Mr. Smagula the rationale for installing the secondary
14 wastewater treatment system, and whether zero liquid
15 discharge was the goal or whether the goal was in order to
16 allow Merrimack Station to come on line prior to the end
17 of the now two decades old NPDES permitting process, which
18 may go for another decade. And, by allowing the plant to
19 come back on line, ceased the accrual of AFUDC, which was
20 accruing at a rate of approximately \$2 million per month
21 and growing. And, would have him do a simple calculation,
22 which is, Scrubber went on line 37 months ago, at a simple
23 accrual of \$2 million, we saved \$74 million in AFUDC, in
24 great part by installing a \$34 million secondary

1 wastewater treatment facility, which is exactly what
2 Jacobs said in the report why it was the right thing to
3 do.

4 CMSR. HONIGBERG: Ms. Chamberlin, you
5 have any other comments on that?

6 MS. CHAMBERLIN: Well, I was going to
7 defer to TransCanada counsel, because this wasn't
8 particularly my issue, but it's the same thing. We've
9 covered it, it was in testimony, and the issues were very
10 clear. And, there's really nothing new to address.

11 CMSR. HONIGBERG: Ms. Amidon.

12 MS. AMIDON: Yes. And, I believe
13 Mr. Smagula testified on this in his redirect, and he
14 explained that the secondary wastewater treatment plant
15 was intended as a bridge until the permitting process
16 could be completed. But the intention under the
17 permitting process was to discharge from the primary
18 wastewater treatment plant. So, I'm not -- directly into
19 Merrimack. So, I'm not really quite sure what additional
20 information can be provided. It really goes to whether or
21 not, in my mind, that that was prudent, whether it is
22 used, and not to the AFUDC, which I don't believe was
23 raised by anyone in the initial inquiry.

24 MR. BERSAK: It was raised in Mr.

1 Smagula's direct testimony, Exhibit 11. But, then, when
2 this issue was discussed with Jacobs, I think that they
3 were questioned about "zero liquid discharge", which kind
4 of changed the course of the discussion, as to whether it
5 was fulfilling it's job or not. And, the offer of proof
6 is that it is definitely fulfilling it's job, because the
7 plant is dispatchable and has been dispatched.

8 CMSR. HONIGBERG: Ms. Goldwasser.

9 MS. GOLDWASSER: I think there are other
10 parties that addressed this issue. I'm not sure that I
11 addressed it with Mr. Smagula. I'm not sure that Attorney
12 Patch did with --

13 MS. AMIDON: The Jacobs folks.

14 MS. GOLDWASSER: So, I'm not sure I have
15 anything to add, except that it sounds like it's material
16 that's been covered.

17 CMSR. HONIGBERG: Mr. Irwin.

18 MR. IRWIN: Yes. CLF would object for
19 the reasons that have been stated already. And, you know,
20 Mr. Smagula did testify already to the intent for which
21 the wastewater treatment system was constructed, acting as
22 a bridge, and to PSNH's desire ultimately that they not
23 have to -- that they not have to operate the secondary
24 wastewater treatment system.

1 CMSR. HONIGBERG: All right. We're
2 going to consider both issues, and then we'll be back.

3 (Recess taken at 3:20 p.m. and the
4 hearing resumed at 3:32 p.m.)

5 CMSR. HONIGBERG: Thank you for your
6 patience. We're going to allow a very limited recall of
7 Mr. Smagula. Not on the truck wash issue, which we think
8 has been run to ground. On a portion of the offer of
9 proof that Mr. Bersak gave related to the testimony from
10 the Jacobs witnesses, regarding the operations of the
11 secondary wastewater treatment system. And, there are,
12 obviously, additional questions that follow from that.
13 But that's the issue on which we're going to allow Mr.
14 Smagula to be recalled. We expect the other parties to be
15 diligent in identifying ground that's already been plowed.
16 And, we will, of course, allow the parties a limited
17 recross or further cross of the testimony that Mr. Smagula
18 gives.

19 MR. BERSAK: Thank you, Commissioner
20 Honigberg.

21 CMSR. HONIGBERG: Mr. Smagula.

22 (Whereupon **William H. Smagula** was
23 recalled to the stand, having been
24 previously sworn by the Court Reporter.)

[WITNESS: Smagula]

1 SP. CMSR. IACOPINO: And, Mr. Bersak, I
2 just want to point out, we have a substantial number of
3 documents in the record regarding the secondary --
4 regarding the NPDES process --

5 MR. BERSAK: Yes.

6 SP. CMSR. IACOPINO: -- already. So, if
7 you just keep that in mind in tailoring your examination.

8 MR. BERSAK: I will be focused and
9 brief.

10 SP. CMSR. IACOPINO: Thank you.

11 MR. BERSAK: I think I got the message.

12 **WILLIAM H. SMAGULA, Previously sworn**

13 **REBUTTAL DIRECT EXAMINATION**

14 BY MR. BERSAK:

15 Q. Mr. Smagula, were you here when the witnesses from
16 Jacobs Consultancy were asked questions regarding the
17 installation of the secondary wastewater treatment
18 system by Public Service Company of New Hampshire?

19 A. Yes, I was.

20 Q. Do you recall there being questions with respect to the
21 operation of that system to produce zero liquid
22 discharges from the wastewater effluent of the
23 Scrubber?

24 A. Yes.

[WITNESS: Smagula]

1 Q. Can you testify as to what was the reason why the
2 secondary wastewater treatment system was installed?

3 A. Well, the primary purpose of the wastewater treatment
4 system, like any portion of the Scrubber Project, was
5 to allow the entire Scrubber effort -- the entire
6 Scrubber equipment to operate properly, and, as a
7 result, meet the objectives of the law. That system
8 was put into place because alternate means of disposing
9 of liquid effluent from the treatment system would not
10 be sustained in the long run. The ability to truck was
11 not sustainable, due to emerging federal regulations.
12 And, the ability to have full control over the
13 discharge of the effluent, to drive it close to zero,
14 if not zero, and to then manage the small amount of
15 effluent that might be coming from the secondary system
16 would be able to be manageable and not have a discharge
17 to a water body.

18 Q. You had said that -- you just testified that continued
19 trucking of effluent was not practical because of
20 "pending federal regulations". Can you address what
21 those were?

22 A. Yes. Specifically, the Steam Electric Generating
23 Station Effluent Limitation Guidelines, referred to as
24 "EGLs" [sic], were in discussion at the federal level

[WITNESS: Smagula]

1 in early 2009 -- or, excuse me, late 2009. And, as
2 part of that body of effort and study existed
3 pretreatment standards, which has to do with effluent
4 from power plants going to POTWs. This was emerging as
5 an area of scrutiny, and that has continued over the
6 last few years. And, while no specific action has
7 taken place at the federal level, we expect that that
8 will take place over the next few years, which creates
9 a significant risk in the long run for disposing of
10 this effluent through POTW discharge points.

11 Q. When you testified that these "Effluent Limitation
12 Guidelines, or actually ELGs, under consideration at
13 the federal level", do you mean by the Environmental
14 Protection Agency?

15 A. Yes. Excuse me. These are all part of the Clean Water
16 Act, as required and regulated by the EPA.

17 Q. Is it your testimony that the purpose of the secondary
18 wastewater treatment facility was to allow the plant to
19 get on line as quickly as possible following the
20 construction of the Scrubber?

21 A. Yes.

22 Q. As part of that goal, were you guided by a statement
23 made in the first order that this Commission issued
24 back in September 2008 that the legislative history

[WITNESS: Smagula]

1 indicates that "time was of the essence" in the
2 construction of the Scrubber?

3 CMSR. HONIGBERG: Mr. Bersak, I think
4 we've covered that.

5 MR. BERSAK: I think that is an
6 objection. We should grant it.

7 CMSR. HONIGBERG: Objection sustained.
8 Ms. Goldwasser was about to make the objection.

9 MS. GOLDWASSER: Thank you.

10 BY MR. BERSAK:

11 Q. Is the secondary wastewater treatment system fulfilling
12 the goal for which it was constructed?

13 A. Yes.

14 MR. BERSAK: That's the extent of the
15 questions.

16 CMSR. HONIGBERG: Thank you. Does
17 anyone have any cross-examination? Ms. Amidon.

18 MS. AMIDON: Just a few questions.
19 Thank you.

20 **REBUTTAL CROSS-EXAMINATION**

21 BY MS. AMIDON:

22 Q. Do you recall that Jacobs testified that they expected
23 that, as a result of the secondary wastewater treatment
24 plant, the liquid discharge would be such that it would

[WITNESS: Smagula]

1 be reused at the facility?

2 A. Yes.

3 Q. And, do you recall that they said that because that was
4 the information that PSNH provided them in response to
5 a data request?

6 A. Yes.

7 Q. And, do you recall that they looked at some -- I think
8 it was the Fact Sheet from the EPA, and they were
9 surprised that water was being sent to publicly owned
10 treatment facilities even after the secondary
11 wastewater treatment plant was in place and in use?
12 Just "yes" or "no".

13 A. No.

14 Q. Well, I think, if I refer you to the transcript, they
15 will say that they were surprised that there was a
16 volume of wastewater that was still being transported,
17 even as most recently as of March 2014 to publicly
18 owned wastewater facilities. Would you accept that
19 subject to check?

20 A. Yes.

21 Q. Isn't it true that the -- PSNH argued to the EPA that
22 the purpose of the secondary wastewater treatment plant
23 was a bridge to such time as they receive the discharge
24 permit?

[WITNESS: Smagula]

1 A. I'm not sure we argued that it was a bridge. I think
2 we argued that the secondary system was not what they
3 referred to as "best available technology". And, that
4 having a zero effluent from that facility continuously
5 may not be technically possible, although we are
6 striving to achieve that -- achieve that.

7 Q. And, do you recall that the Company's position with
8 respect to the EPA is that they should be able to
9 discharge directly from the primary wastewater
10 treatment facility?

11 A. The comments we made to the EPA challenged some of
12 their conclusions with regard to the operation of the
13 secondary system. And, --

14 Q. And, that's not the question I asked.

15 A. I'm sorry. Would you repeat it.

16 Q. Isn't it not true that PSNH is asking EPA for a permit
17 that would allow them to discharge any effluent
18 directly from the primary wastewater treatment plant?

19 A. We do want that for operational flexibility, yes.

20 Q. Well, that's not what you said in the EPA comments. I
21 think you said -- you said you thought that that was
22 the "best available technology"?

23 A. I don't recall using that terminology. But that may be
24 true.

[WITNESS: Smagula]

1 Q. Well, we can refer the Commission to that document.

2 A. Yes.

3 Q. And, you would still seek to recover the costs
4 associated with the secondary wastewater treatment
5 plant, and with trucking water from the secondary
6 wastewater treatment plant to publicly owned water
7 treatment facilities from ratepayers in this
8 proceeding, is that correct? "Yes" or "no". You
9 said "yes" before.

10 A. Are you talking in the current tense or in the future
11 tense?

12 Q. That is the purpose of this proceeding, is to seek
13 recovery of costs from ratepayers for the Scrubber, and
14 among those costs are the costs of the secondary
15 wastewater treatment plant and the cost of trucking the
16 water to the publicly owned treatment facilities?

17 A. Currently, yes.

18 MS. AMIDON: Thank you. Thank you.

19 That's all I have.

20 CMSR. HONIGBERG: Mr. Irwin.

21 MR. IRWIN: Thank you.

22 BY MR. IRWIN:

23 Q. Mr. Smagula, have you, prior to this docket,
24 communicated to Commission Staff the purpose for

[WITNESS: Smagula]

1 which -- the primary purpose for which the secondary
2 wastewater treatment system was to be constructed?

3 A. I believe so, yes.

4 Q. And, in doing so, have you communicated to Staff, prior
5 to this docket, that PSNH's intent or hope was to not
6 be required, after issuance of a NPDES permit, to
7 operate a secondary wastewater treatment system?

8 A. I'm not sure I recall that specifically.

9 Q. Okay. Do you have -- is Exhibit 61 still up there? I
10 saw some binders being removed, and I'm wondering if
11 it's still available there. If not, I can --

12 (Cmsr. Honigberg handing document to the
13 witness.)

14 MR. IRWIN: Okay. Thank you.

15 MS. AMIDON: Thank you, Commissioner.

16 WITNESS SMAGULA: Thank you.

17 MR. IRWIN: Thank you, Mr. Chairman.

18 BY MR. IRWIN:

19 Q. If I could direct you to Page 26 of 57 within this
20 document. Exhibit 61 is the Fact Sheet that
21 accompanied EPA's Merrimack Station Revised Draft
22 Permit.

23 A. I'm on Page 26.

24 Q. Okay. Thank you. So, I'd like to direct your

[WITNESS: Smagula]

1 attention to the sentence just above Section 4.4.2.
2 And, this states, and this is, again, this is EPA:
3 "Yet Region 1", meaning Region 1 of EPA, "also notes
4 that in support of PSNH's then pending energy service
5 rate application, William H. Smagula, PSNH's Director
6 of Generation, stated the following to the NHPUC: "The
7 secondary wastewater treatment system is a technology
8 that will be used on a permanent basis to complement
9 the primary treatment system"."

10 A. Yes.

11 Q. Did EPA get this wrong?

12 A. No.

13 MR. IRWIN: Okay. Thank you. I have no
14 further questions.

15 CMSR. HONIGBERG: Does any other counsel
16 have questions for Mr. Smagula? Ms. Chamberlin, Mr.
17 Patch, --

18 MR. PATCH: No.

19 CMSR. HONIGBERG: -- Mr. Fabish all say
20 "no". Nothing further from Mr. Bersak.

21 MR. BERSAK: No thank you.

22 CMSR. HONIGBERG: Commissioner Iacopino,
23 do you have anything?

24 SP. CMSR. IACOPINO: Yes, just a couple

[WITNESS: Smagula]

1 of questions.

2 BY SP. CMSR. IACOPINO:

3 Q. Mr. Smagula, do you remember when I asked you some
4 questions at the end of your testimony regarding the
5 secondary --

6 A. I recall you did ask questions, yes.

7 Q. I don't recall, and please correct me if I'm wrong, you
8 ever mentioning anything about "federal regulations" or
9 "ELGs".

10 A. I did not mention it at that time.

11 Q. No. You did tell us a lot about having problems with
12 trucks with the Town of Bow.

13 A. Right. Yes.

14 Q. When did you learn that there were ELGs that were under
15 discussion by the EPA in late 2009, as you testified
16 here in your testimony?

17 A. I think that's been in discussion with our
18 Environmental Department and our internal and external
19 legal counsel during that -- for a long period of time.

20 Q. When did you learn that though? I understand other
21 people in your company may be discussing it. When did
22 you learn that?

23 A. A number of years ago. I don't recall specifically the
24 date.

[WITNESS: Smagula]

1 Q. So, you would have been aware of that prior to our
2 discussion a few days ago at the end of your testimony?

3 A. Yes.

4 Q. Okay. And, I guess the question I have is, is the
5 secondary waste -- is the plan for the secondary
6 wastewater treatment system for it to just sit there
7 and not do anything, if you get what you want from the
8 EPA?

9 A. No. Not at all.

10 Q. What's the plan?

11 A. I think the plan is that the secondary wastewater
12 treatment facility will be required to operate
13 continuously going forward. However, if there are
14 upsets with that system or equipment in that facility,
15 we would like to have the ability, for operational
16 flexibility, to allow the discharge from the primary
17 system. That is the thrust of why we're arguing so
18 strongly that that continue to be allowed. However, in
19 the recently reopened NPDES permit, the EPA has
20 required us to install this technology. And, we
21 understand their reasoning, but they also said they
22 wanted to have a zero effluent all the time; we
23 disagree with that. So, we are trying to find a path
24 that's acceptable to the EPA, that's acceptable to our

[WITNESS: Smagula]

1 operations of our facility. And, giving up the ability
2 to allow discharge from the primary gives up a lot of
3 our flexibility to maintain reliability of the station
4 operation.

5 SP. CMSR. IACOPINO: Thank you. No
6 further questions.

7 CMSR. HONIGBERG: I have no further
8 questions. Now I should have asked you, Mr. Bersak, do
9 you have anything?

10 MR. BERSAK: No. Thank you.

11 CMSR. HONIGBERG: All right. Thank you
12 very much, Mr. Smagula.

13 WITNESS SMAGULA: Thank you.

14 CMSR. HONIGBERG: So, Mr. Patch, you
15 have a couple of motions that you may be filing. When
16 will you be getting those motions in?

17 MR. PATCH: Well, I think I had asked
18 earlier, if I didn't, then I'd appreciate a week to file
19 the motions. I mean, a week from tomorrow would be best,
20 but we'll abide by whatever the Commission says on that.

21 CMSR. HONIGBERG: A week from tomorrow
22 is fine. Objections to such motions? That will be the
23 31st he's going to file.

24 MR. BERSAK: If we could have a week,

1 but we will endeavor to get an appropriate response filed
2 as quickly as we can, but within a week.

3 CMSR. HONIGBERG: That's fine. So, that
4 will be the following Friday.

5 Are there other issues on which the
6 parties and intervenors want to submit memos of law or
7 arguments, written arguments of any sort? I'm sorry,
8 Ms. Chamberlin. I couldn't see your hand.

9 MS. CHAMBERLIN: Your Honor, I would
10 like to submit a closing argument in a brief form, just
11 arguing prudence and summing up the data that I think
12 supports my arguments.

13 MR. PATCH: And, we would as well.

14 CMSR. HONIGBERG: Others, it looks like
15 others would like to as well. I am told that transcripts
16 will be available by the end of next week, perhaps
17 earlier, but the end of next week looks like when they
18 will be available. When do parties feel like they will be
19 able to submit their summations, as it were?

20 MR. BERSAK: Well, the Company's goal is
21 to allow the Commission to be in a position to issue an
22 order in time so that, if there are rate adjustments that
23 need to be made, they could be implemented
24 contemporaneously with our January 1st rate changes, so

1 that customers don't wind up with a period of volatility.

2 In past cases, we've had two weeks from
3 the receipt of transcripts to provide a memorandum like
4 this. If the court reporter feels he needs till the end
5 of next week, which is the 31st, perhaps until two weeks
6 from then, the 14th of November, might be an appropriate
7 date, if that allows the Commission enough time to do what
8 it is that we would request that they do, which is an
9 order by the end of the year.

10 CMSR. HONIGBERG: I was thinking the
11 14th just on my own. Do others feel like the 14th is a
12 good date? A good target date?

13 MS. CHAMBERLIN: That's fine.

14 MR. PATCH: Yes.

15 CMSR. HONIGBERG: I see nods all around,
16 and a thumb's up from Mr. Fabish, which I appreciate.

17 MR. PATCH: Do you want page limits?

18 MS. AMIDON: Ooh, yes.

19 MR. GLAHN: I think there should be a
20 page limit.

21 MS. AMIDON: A great idea.

22 CMSR. HONIGBERG: You know, and
23 Mr. Sheehan suggests "four pages".

24 MS. AMIDON: Double-spaced.

1 CMSR. HONIGBERG: I think that, while my
2 inclination is always to impose page limits on the theory
3 that, if the Supreme Court feels everything lawyers can do
4 can be said in 25 pages, you know, --

5 MR. GLAHN: Thirty-five, actually,
6 unless you're referring to their Supreme Court.

7 CMSR. HONIGBERG: I think that -- I
8 don't think we're going to impose page limits. I think
9 we're going to encourage people, given the volume of
10 material here, it may not be possible to impose a really
11 strict page limit. But we would certainly encourage the
12 parties to be succinct on these issues. We'll read
13 whatever you submit, and the exhibits and testimony that
14 you highlight for us we will look at, and just make your
15 best arguments.

16 Are there other issues we need to take
17 up right now?

18 (No verbal response)

19 CMSR. HONIGBERG: We'll rely on you to
20 get the exhibits right in the record. And, I think, at
21 this point, we can close the proceeding.

22 MR. BERSAK: I just want to thank --

23 CMSR. HONIGBERG: Yes, Mr. Bersak.

24 MR. BERSAK: I just want to thank both

1 you and Commissioner Iacopino for sitting through this,
2 because we think that all the parties did a fabulous job
3 during this very difficult proceeding. So, thank you.

4 CMSR. HONIGBERG: You're welcome. I was
5 actually going to say, I appreciated the attorneys and the
6 witnesses, frankly, in cooperation with each other, in
7 large measure, the questioning went more smoothly than I
8 feared it would at times, although there were certainly
9 rocky moments. So, again, thank you for your
10 professionalism.

11 And, I look forward to hearing from you
12 further.

13 **(Whereupon the hearing was adjourned at**
14 **3:51 p.m.)**