

THE STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION

DE 13-020

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

**Investigation into Market Conditions Affecting PSNH and its Default Service Customers  
and the Impact of PSNH's Ownership of Generation on the Competitive Electric Market**

**ORDER OF NOTICE**

The Commission announces an investigation, pursuant to RSA 365:5 and RSA 374:4 into the market conditions affecting the default service of Public Service Company of New Hampshire (PSNH) in the near term and how PSNH proposes to maintain safe and reliable service to its default service customers at just and reasonable rates in light of those market conditions. It will also explore the impact, if any, of PSNH's continued ownership and operation of generation facilities on the competitive electric market in New Hampshire.

**Background**

The Commission is required, pursuant to RSA 363:17-a, to act as arbiter between the interests of a utility's shareholders and its ratepayers. In meeting that obligation, the Commission must assess conditions that put pressure on the ability of a utility offering service to significant numbers of New Hampshire citizens and, when necessary, explore the utility's expectations as to how it will successfully respond to those conditions.

Electric Utility Restructuring legislation, codified as RSA 374-F, passed in 1996, included the following statements of purpose in RSA 374-F:1:

The most compelling reason to restructure the New Hampshire electric utility industry is to reduce costs for all consumers of electricity by harnessing the power of competitive markets. The overall public policy goal of restructuring is to develop a more efficient industry structure and regulatory framework that results in a more productive economy by reducing costs to consumers while maintaining safe and reliable electric service with minimum adverse impacts on the

environment. Increased customer choice and the development of competitive markets for wholesale and retail electricity services are key elements in a restructured industry that will require unbundling of prices and services and at least functional separation of centralized generation services from transmission and distribution services.

RSA 374-F:1 also discussed the transition to competitive markets for electricity and included reference to numerous interdependent policy principles (*see* RSA 374-F:3) intended as a guide to the Public Utilities Commission (Commission) in implementing a statewide electric utility restructuring plan.

Following the passage of RSA 374-F, lengthy legal and regulatory proceedings over a number of years culminated in the introduction of electricity competition in the service territory of PSNH effective May 1, 2001 pursuant to a Commission-approved *Agreement to Settle PSNH Restructuring* (Settlement Agreement) (*See* the following orders in Docket No. DE 99-099: No. 23,443 (April 19, 2000), No. 23,549 (September 8, 2000) and No. 23,550 (September 8, 2000)). Companion legislation integral to achieving settlement in PSNH's restructuring proceeding was enacted in 2000 and encompassed in RSA 369-B and its various subparts. Included in the Settlement Agreement was a plan for PSNH's divestiture of its generation assets.

Following restructuring developments in other states, most notably California, the General Court enacted RSA 369-B:3-a in 2003. It prohibited the sale of PSNH's fossil fuel-fired and hydroelectric generation facilities prior to April 30, 2006. Further, the statute provided that, subsequent to that date,

PSNH may divest its generation assets if the commission finds that it is in the economic interest of retail customers of PSNH to do so, and provides for the cost recovery of such divestiture. Prior to any divestiture of its generation assets, PSNH may modify or retire such generation assets if the commission finds that it is in the public interest of retail customers of PSNH to do so, and provides for the cost recovery of such modifications or retirement.

PSNH divested its entitlement to the power output from the Seabrook Station nuclear facility, *see* Order No. 24,050 (September 12, 2002), but currently retains ownership of its fossil and hydro generating facilities. In addition, PSNH also currently purchases energy, capacity and/or environmental attributes from other generating facilities, pursuant to contracts or rate orders.

PSNH uses its generating facilities and entitlements, along with supplemental wholesale market purchases, as necessary, to fulfill the requirements of RSA 369-B:3, IV(b)(1)(A), which states,

From competition day until the completion of the sale of PSNH's ownership interests in fossil and hydro generation assets located in New Hampshire, PSNH shall supply all, except as modified pursuant to RSA 374-F:3, V(f), transition service and default service offered in its retail electric service territory from its generation assets and, if necessary, through supplemental power purchases in a manner approved by the commission. The price of such default service shall be PSNH's actual, prudent, and reasonable costs of providing such power, as approved by the commission.

### **Market Developments**

Subsequent to the implementation of electric industry restructuring in PSNH's service territory in 2001, many changes have taken place in the energy and capacity markets. Most notable is the large decrease in the price of natural gas (NG) since the widespread availability of shale gas. This decrease in NG prices has resulted in a large decrease in wholesale electric prices causing many generators that rely on other fuels (such as Merrimack Station and Schiller Station Units 4 and 6), or use natural gas but are not combined cycle units (such as Newington Station), to run at much lower capacity factors. In addition, laws have since been enacted with respect to renewable energy resources, environmental and emissions requirements (*see*, for example, RSA 362-F and RSA 125-O), as well as amendments to RSA 374-F, that have had differing impacts on the costs of owning and operating electric generation facilities in New Hampshire and on PSNH's default service rates. Further, ISO-New England's proposed changes to the forward

capacity market will put less value on fuel diversity than in the past and instead will reward generating units strictly based on their performance. Finally, competitive energy service is now available through multiple suppliers to residential, as well as commercial and industrial customers, and the rate at which customers are choosing these alternative suppliers is increasing.

Continued ownership of its generation facilities has left PSNH in a “hybrid” situation with respect to electric industry restructuring; one that, from a customer perspective, has had varying results as changes have taken place in the market and legislative landscapes over time. As a result of those changes, in recent years PSNH’s fossil fueled generating plants have been experiencing lower capacity factors because it is often less expensive for PSNH to buy power in the wholesale market than to generate it at its fossil fueled facilities. The fixed costs associated with the generation assets are, however, included in the calculation of PSNH’s default service rate even when PSNH buys power in the wholesale market at prices lower than it costs to generate it at its own facilities. The combination of wholesale market costs plus the fixed costs associated with the generation assets are both included in default service rates, putting upward pressure on those rates which, in turn, encourages more of PSNH’s default service customers to migrate to less expensive competitive supply options, leaving the fixed costs of maintaining generation to fall on a smaller pool of default service customers. All else being equal, this causes higher default service rates, which can lead to further migration.

Two additional developments during 2013 and their respective impacts on PSNH’s default service rates are factors that need to be considered: 1) the cost of the recently installed emissions reduction “scrubber” technology on PSNH’s Merrimack Station coal-fired generating plant currently being evaluated in Docket DE 11-250; and 2) the Burgess BioPower facility, a biomass-fueled generating plant under construction in Berlin, New Hampshire with which PSNH

has a power purchase agreement, and which is likely to become operational in the fourth quarter of the year.

### **Commission Investigation**

The existing hybrid situation for PSNH involves a number of proceedings before the Commission in any given year that individually require examination of discrete rate and market issues, but not the overall impacts and implications of PSNH's continued generation ownership. Given the passage of time since the enactment of the electric industry restructuring legislation and implementation of restructuring in PSNH's service territory, along with the multitude of developments that have occurred on the legislative front and in the energy and capacity markets during that time, we find it appropriate to open an investigation pursuant to RSA 365:5 and RSA 374:4 to examine the circumstances of PSNH's default service rates and the degree to which those circumstances affect the ability of PSNH to provide safe and reliable service at just and reasonable rates to its default service customers. Further, we will investigate the extent to which the current hybrid situation affects the competitive electricity market. Additionally, we find that certain portions of the Least Cost Energy Planning required by RSA 378:38 are best addressed in this investigation. Specifically, we find that RSA 378:38, III regarding assessment of supply options, and IX regarding assessment of the long- and short-term environmental, economic and energy price and supply impact on the State, should be addressed in this investigation rather than in PSNH's next least cost integrated resource plan.

This investigation is not an adjudication pursuant to RSA 369-B:3-a and it will not undertake to determine whether continued ownership and operation of generation is in PSNH's retail customers' economic interest. Rather, this is an inquiry to be conducted by Commission Staff to explore the market conditions facing PSNH in the near term, PSNH's proposals to

maintain default service at just and reasonable rates in light of those market conditions, and the impact, if any, of continued ownership and operation on the competitive electric market.

Considerable information gathered through this inquiry will be commercially sensitive and, pursuant to RSA 91-A, such information will not be publicly disclosed.

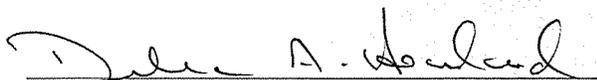
**Based upon the foregoing, it is hereby**

**ORDERED**, that the Commission Staff investigate the matters delineated herein; and it is

**FURTHER ORDERED**, that PSNH respond to Staff's inquiries, subject to protective treatment as appropriate, pursuant to RSA 91-A; and it is

**FURTHER ORDERED**, that Staff make inquiries of other stakeholders as needed in its investigation, with responses afforded protective treatment as appropriate, pursuant to RSA 91-A.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of January, 2013.



Debra A. Howland  
Executive Director

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the Americans with Disabilities Act Coordinator, NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.