IR 13-020

NEPGA
NEW ENGLAND POWER GENERATORS ASSOCIATION, INC.

141 Tremont St., Boston, MA 02111
(t) 617-902-2354 (f) 617-902-2349
www.nepga.org

June 28, 2013

Debra Howland
Executive Director
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, NH 03301

NHPUC JUL01'13 AM 9:50

Re: IR 13-020: Comments of the New England Power Generators Association, Inc.

Dear Ms. Howland:

The New England Power Generators Association, Inc. (NEPGA) appreciates the opportunity to submit these comments in reply to the June 7, 2013 Secretarial letter which provided an opportunity to comment on the New Hampshire Public Utilities Commission (PUC) staff report (Staff Report) in Docket IR 13-020, *Public Service Company of New Hampshire Investigation into Market Conditions, Default Service Rate, Generation Ownership and Impacts on the Competitive Electricity Market.*[1] NEPGA agrees with the Staff recommendations for the reasons outlined below.

INTRODUCTION

NEPGA is the trade association representing competitive electric generating companies in New England. NEPGA's member companies represent nearly 26,000 megawatts (MW) – or over 80 percent – of generating capacity throughout New England, and 2,700 MW of generation in New Hampshire, representing over two-thirds of the state's electric generating capacity. Overall, NEPGA's New Hampshire companies pay approximately $35 million annually in state income and local property taxes. NEPGA member companies provide more than 1,200 well-paying and skilled New Hampshire manufacturing jobs, while annually contributing hundreds of thousands of dollars to charitable endeavors throughout the state. NEPGA's mission is to promote sound energy policies which will further economic development, jobs and balanced environmental policy.

[1] The comments expressed herein represent those of NEPGA as an organization, but not necessarily the position of any particular member.

default service rates of Public Service of New Hampshire (PSNH) and the impact of PSNH's continued ownership of its generation assets on the competitive electric markets. The PUC's directive opening IR 13-020 with Staff investigating these issues, PSNH responding to Staff inquiries and Staff inquiring with other stakeholders, provides a useful framework for initiating meaningful regulatory and legislative processes going forward. NEPGA participated in the information gathering process undertaken by Staff and looks forward to continuing to participate in any future processes and proceedings.

NEPGA strongly agrees with the PUC Staff's conclusion that the status quo is unsustainable and urgent action is necessary. As many other stakeholders also expressed during this investigation, NEPGA believes it is time to complete electric restructuring. NEPGA also supports many of the recommendations in the Staff Report including the Commission opening a proceeding to further engage stakeholders and address questions related to PSNH's Default Service rate, the value of PSNH's rate-based generation assets and the issues surrounding stranded cost mitigation, and the immediate outreach to executive and legislative leadership.

The first step, however, recommended by Staff and supported by NEPGA, is for PSNH to "bring forth immediately proposals that would address a transfer of energy supply assets to an affiliate in accord with the optimistic views that the company has expressed with regard to the value of the assets" (Staff Report, pp. 54-55). NEPGA urges the PUC to immediately request PSNH to submit such proposals in an accelerated schedule and to provide stakeholders an opportunity to comment on the proposals. Immediate submission of such proposals should be required to allow for further assessment of the issues identified in the Staff Report in the collaborative process discussed below. In an effort to assist in this regard, we have attached to our comments a February 2013 NEPGA paper that outlines the options for completing electric restructuring in New Hampshire, including the transfer of electric supply assets to a PSNH generation affiliate to remove the plants from rate base.

Given the unsustainable nature of the status quo and the need to take meaningful action to address the challenges identified in the PUC Report, and in prior dockets such as Docket 10-160, *Public Service Company of New Hampshire, Investigation into the Effects of Customer Migration,* NEPGA recommends a collaborative process that includes policymakers and key stakeholders to consider the issues in the PUC Staff report, as well as comments filed on the Staff Report in order to expediently develop a plan for moving forward with the completion of electric restructuring in the state. Issues associated with the transition, such as the potential for stranded cost recovery not borne by PSNH, should also be addressed. Ideally this process should begin immediately and conclude by early December 2013.

NEPGA further recommends that once this collaborative process is complete and a plan is developed, the Legislature should take any necessary legislative actions while the PUC opens a docket to address any necessary regulatory issues to allow for the functional unbundling process of PSNH's generation assets from its distribution business to begin in June 2014. After the necessary regulatory or legislative actions are completed, presumably in June 2014, the value of the PSNH generation assets would then be determined through a market process leading to the functional unbundling of the generation assets from the distribution function either through a transfer to an affiliate or a sale to a third party. This latter step ideally would take place from June through December 2014 to allow the completion of electric restructuring to occur in a timely fashion and to stem the negative impacts of the current status quo. NEPGA believes that without an expeditious and realistic timeline in place to address the Staff Report, negative and costly impacts of the status quo could be prolonged for years, further harming consumers who have already spent years paying a premium for unnecessary rate-base assets.

NEPGA'S SPECIFIC COMMENTS ON COMPLETING ELECTRIC RESTRUCTURING

In the following comments, NEPGA highlights the benefits that New England has enjoyed due to competitive electric markets. Our comments also offer additional insight regarding several of the issues raised in the Staff Report including the unsustainable nature of the status quo, how PSNH default service rates compare to the rest of the utilities in New England (including its subsidiaries in other states), the current natural gas/electricity coordination issues in the region, and questions related to the mechanics of generation asset divestitures. Our comments conclude with recommendations on how to move the process of completing electric restructuring forward with a recommended timeline. The report correctly expressed the urgent need to resolve the issues that led the PUC to open this investigation in early 2013. As Staff detailed in the report:

> "In summary, the situation looks to worsen, as continuing migration from PSNH's default service by customers caused an upward rate trend. We find no supportable basis for optimism that future market conditions will reverse this unsustainable trend, especially in the near term. To the contrary, the PUC fossil units face uncertainties that combine to create a risk of further, potentially substantial increases in costs" (Staff Report p. 1).

NEPGA's recommended path maintains this sense of urgency, while being cognizant of the many issues that need to be addressed moving forward, including protecting consumers from burdensome costs, ensuring an orderly transition for employees associated with PSNH's generation assets, and maintaining customer choice and a vibrant wholesale and retail electric competitive market.

THE BENEFITS OF ELECTRIC COMPETITION

Over a decade ago most of the New England region moved toward a competitive electric industry structure. Essentially all utilities – except for PSNH – separated their generation function from the transmission and distribution, or "wires" function.[2]

[2] Vermont investor-owned utilities own approximately 100 MW of generating facilities, dwarfed by the 1,100 MW owned by PSNH. The majority of generating assets owned by Vermont utilities was transferred to the competitive market upon the sale of Vermont Yankee more than a decade ago in 2002.

Companies such as NEPGA's members invested billions of dollars in the region buying these facilities, investing in upgrades and developing new power plants. The premise underlying this particular component of electric industry restructuring was to allow market forces and transparent pricing to guide business decisions of owners and operators of *all* generation facilities. One anticipated outcome of the new competitive market was environmental improvements and alternative energy resources.

Some specific examples of the benefits of electric competition to the region as a whole include:

- ***New, Clean Generation for New England.*** Since the late 1990s, generation developers have invested billions in new generation facilities providing over 13,100 MW of new, clean generation for New England.

- ***Reduction of Risks to Consumers.*** Competitive generation developers absorb risks of cost overruns and bad investment decisions and have shielded consumers from those risks, unlike in the vertically-integrated utility regime.

- ***Greater Plant Availability.*** At the same time, plant availability – or the amount of time that plants are available to run when asked to do so – has increased from 78 percent to 88 percent. This increase is enough to power an additional 1.96 million New England homes. And, the improved availability of generators saves consumers hundreds of millions of dollars annually by providing lower cost energy and allowing reliability to be met with fewer plants.

- ***Decreased Environmental Emissions.*** Environmental emissions across the region have decreased with CO_2 emissions down by 18 percent; NO_X emissions down by 66 percent and SO_2 emissions down by 71 percent.

In order for all of New Hampshire consumers to enjoy these benefits of a competitive electric market, policy-makers must ensure the preservation of the principles of an open and transparent market whereby all market participants can compete on a level playing field. That is not the case today where a single company, PSNH, receives virtually guaranteed cost recovery and profit regardless of its performance, operations or economics. NEPGA believes a fundamental step in ensuring the expansion of these benefits is to complete electric restructuring in New Hampshire.

Currently, New Hampshire has more than 4,000 MW of installed capacity. PSNH's generation assets account for 1,100 MW of this capacity, with the remaining generation provided by a mix of resources from competitive non-utility generators. Since 2002, the competitive generators have added more than 1,200 MW of generation in New Hampshire with no cost recovery guarantees and no construction or operational risks to consumers in New Hampshire. The state's peak demand in 2012 was 2,293 MW, with ample local, cost-effective generation available to match the state's demand even before considering the strong regional interties across New England. Completing electric restructuring, and fully separating PSNH's generation assets from its transmission and distribution business, will improve, not jeopardize, the state's positive electric supply outlook.

ISSUES RAISED BY THE PUC STAFF REPORT

The Staff Report raised some important issues that merit further evaluation as the Commission opens an investigation to more fully address the current situation for PSNH and its customers.

The Unsustainable Status Quo

As the rest of the region restructured its electric industry in the late 1990s/early 2000s, the New Hampshire Legislature decided to pause the transition in 2003 and allow PSNH to retain its remaining generation assets, out of a belief that the plants would serve as a hedge against a volatile market. Nearly a decade later, this policy diversion has put the utility on an unsustainable path. Uneconomic rate-base generation costs must be paid by fewer and fewer customers as more and more customers leave PSNH for lower cost competitive suppliers. As each customer leaves PSNH service, the more remaining customers must pay. This path is risky and costly for consumers, and ultimately unnecessary as a vibrant and competitive market exists today to meet the electricity supply needs for all New Hampshire consumers. PUC Staff recognized this unsustainable situation in its report:

> "…the current situation has in recent years resulted in above-market default service rates and increasing rate of customer migration away from PSNH's default service rate which puts continuing and increasing upward pressure on that rate. PSNH has instituted changes to its plant operations and purchasing strategies in light of changing market conditions. Despite these changes, however, cost pressures have created a situation that appears unsustainable." (Staff Report p. 32).

It is clear that a tipping point will come in which the costs, risks and alternatives put on default energy consumers demand action. That time is now. The state must act to prevent consumers from paying further unnecessary, above-market costs.

The negative impact of the status quo has put PSNH in financial peril. The beginning of this crisis was evident in 2010 when PSNH sought an early bail out through the imposition of a non-bypassable charge on all customers, even those who had left PSNH electric supply for the competitive retail market, to recover its excess energy costs. As the PUC opined in its July 26, 2011 Order in Docket 10-160, *Public Service Company of New Hampshire, Investigation into the Effects of Customer Migration:*

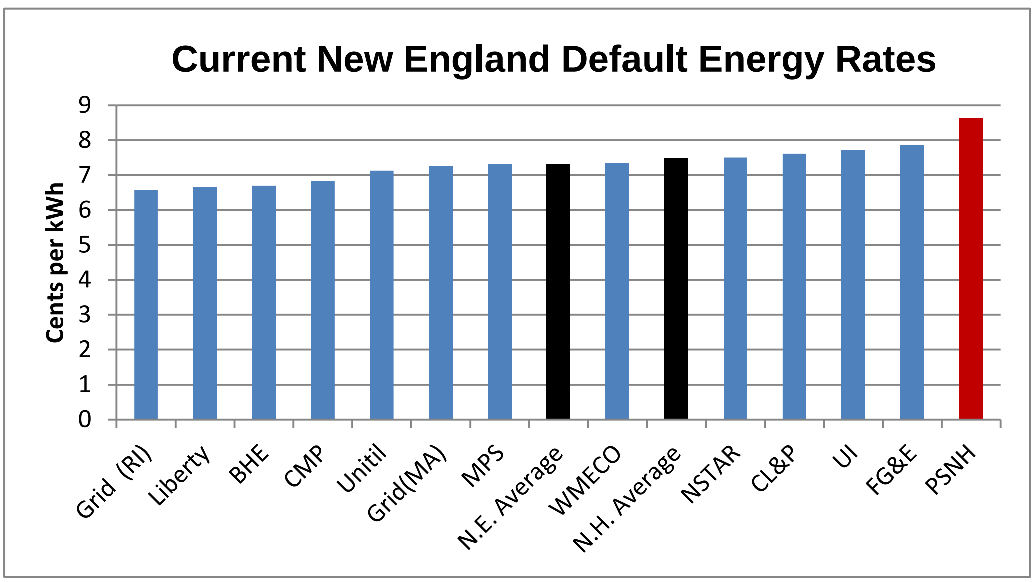
> "The customer migration effect that PSNH seeks to remedy through a non-bypassable charge is symptomatic of the transition instigated by restructuring and is exacerbated by the protracted duration of the transition…A non-bypassable charge is unwise in these circumstances because it does not address the underlying cause of the conditions affecting PSNH's remaining energy service customers and its reflects instead an implicit view that PSNH's

> ownership of generation assets is an end-state and not a transition, as was originally intended." (Order p. 39).

PUC Staff correctly concluded that "taking no action threatens to leave a dwindling yet still substantial number of the state's residents and small businesses facing ever higher costs for service relative to market alternatives and could eventually threaten the financial health of PSNH." (Staff Report p. 2). For this reason alone it is imperative that New Hampshire's leadership and impacted stakeholders move expediently to change the course of this unsustainable status quo.

PSNH's Default Service Rates are the Highest in New England

As a result of PSNH's current status quo, residential customers of PSNH are paying the highest energy costs in any of the restructured New England states. As the chart below illustrates, PSNH's projected default service rates for July 2013 are 15 percent higher than the average New Hampshire default service rate and 18 percent higher than the regional average. Before PSNH sought a mid-year rate adjustment in May, these rates were 32 percent higher than the state average and 29 percent higher than the regional average.



In December 2012, the PUC recognized the magnitude of PSNH's requested rate increase for 2013 in its Order 25,448 which approved PSNH's proposed 2013 default service rate:

> "While there is no technical deficiency to the filing, the fact that the proposed ES rates are increasing by such a significant percentage impacts PSNH's energy service customers and could exacerbate customer migration. By our calculation, for a residential customer using 500 kWh per month, the energy service component of their bill would increase by $12.15 per month, from $35.55 to $47.70 – a significant increase." (Order pp. 8-9).

The gap between PSNH's rates and market rates is a key factor leading to the Commission decision to open the investigation into the market conditions, default service rate and generation ownership in the state's competitive market. As explained in the Staff Report:

> "…the gap that now exists if to measure the difference between PSNH's default service rate, 9.5 cents per kilowatt-hour (kWh), and prevailing retail market prices, 7.0 – 8.0 cents per kWh, which are lower than PSNH's rates by approximately 15 to 25 percent." (Staff Report p. 1).

In its investigation, the PUC Staff correctly identifies and analyzes some of the factors that will continue to contribute to the unsustainable cost structure for PSNH including yet-to-be recovered costs for the Merrimack Station scrubber which may ultimately add 1.8 cents per kWh to base rates, the possible need to add a cooling tower at Merrimack Station, additional controls to meet mercury and SO_2 standards, and the impact of continuing customer migration to the competitive market. It is important to recognize, however, that even without these future cost risks, the market rates would still undercut the rate-base generation. There has been a fundamental change in the energy markets that began at the beginning of this decade with the bounty of natural gas production domestically and by every reasonable and expert view is expected to continue for a lifetime. As the chart above illustrated and the PUC Staff explain in their investigation, PSNH rates have been trending upward for several years and if PSNH's power plants are not removed from rate-base, that trend will continue.

Short-Term Regional Gas Transportation Challenges

Over the last decade, generation developers have invested billions in new generation facilities throughout the region, bringing on more than 13,000 MW of newer, cleaner generation for New England. Much of this new generation is gas-fired and currently a little over half of New England's electricity is produced by natural gas-fired power plants. Tapping into shale reserves in nearby New York and Pennsylvania has provided a source of low-cost natural gas supply for New England. Due to lower natural gas prices which decreased nearly 20 percent alone in 2012, New England wholesale electric prices fell 23 percent in 2012.[3]

The increasing role of natural gas in meeting the region's electric power supply needs has brought financial, as well as environmental benefits, to the region. However, as witnessed last winter and addressed in the Staff Report, there are current transportation limits on natural gas pipelines coming into New England from the domestic gas fields. There were price spikes in the region's wholesale energy spot prices in January and February during times of high demand for natural gas for home heating as well as power plant production. While there are challenges to be managed, it is imperative to recognize that the ISO-NE and stakeholders are taking both short-term and long-term measures to address these transportation challenges.

[3] ISO New England 2012 Annual Markets Report.

Regional stakeholders voted on June 27, 2013 to support an ISO-NE proposal for addressing these challenges during the 2013/2014 winter period. ISO-NE intends to file its proposal with the FERC as soon as possible, perhaps as soon as June 28, 2013. The proposal includes both a new demand response program for the winter months and a series of monthly incentives to ensure a level of oil inventory at the region's oil-fired and dual-fuel fired generation units during the winter months. In addition, NEPGA has served as one of the Tri-Chairs of the New England Gas/Electric Focus Group that has met regularly over the last nine months to increase communication and identify efficiencies that can be made to facilitate improvements between the industries. Because proactive action is being taken, the experiences of this past winter are not expected to be repeated.

On a longer-term level, the ISO-NE is working with the states and stakeholders to develop more market-based approaches to ensure winter system reliability. Meanwhile, it appears likely that one of the ultimate remedies to gas transportation issues will be through construction of new pipelines or increases in capacity of existing pipelines into the region, with a number of proposals already having been announced.

Even with the price spikes last winter, wholesale electric prices have stabilized and remain at historically low levels throughout the region. During May 2013, regional prices ranged from \$37 to \$39 per MWh across the region. This sustained level is consistent with the 2012 average wholesale prices in the region of \$36.09 – a level representing a 25 percent decrease from 2003 levels and a 23 percent decrease from 2011 levels.

PSNH has publicly stated that the recent price spikes in the spot market merit the company keeping its fossil generation units as "insurance" or a hedge against possible increases in natural gas prices. NEPGA agrees with the PUC Staff analysis that "even at the level that constraints have occurred recently, the frequency and severity have not served to give the PSNH fossil units enough of a boost to overcome this negative value." (Staff Report p. 3). ISO's current proposal for the 2013/2014 winter period does not include coal units as "insurance" and even if the PSNH oil units participated in the ISO program, this short-term revenue enhancement would not significantly improve the economics of these units. The focus of addressing issues related to the gas transportation constraints lies at the regional level with the ISO-NE, state policymakers, generators and gas suppliers, not with PSNH. The regional approach leverages necessary resources beyond PSNH's generation assets to ensure an optimum cost-effective policy. No other utility has suggested addressing these short-term issues by owning generation, including PSNH's affiliates in Connecticut and Massachusetts. Moreover, efficient non-gas generating resources exist in New Hampshire and the nearby region to meet the reliability needs of the territory served by PSNH.

The Divestiture Option

While NEPGA supports the PUC Staff recommendation that "PSNH be asked to bring forth immediately proposals that would address a transfer of energy supply assets to an affiliate in accord with the optimistic views that the company has expressed with regard to the value of those assets," (Staff Report p. 55)," NEPGA recognizes that one likely avenue to resolve the current crisis with the status quo is for PSNH to pursue the divestiture of its assets. PUC Staff raised several questions related to this option including how the plants might be packaged for a sale, if all the plants should be sold, and if PSNH should retire some of its assets. During the 2012 legislative session, the issue of divestiture was addressed and NEPGA, along with many other stakeholders, participated in this discussion. As the PUC and perhaps the Legislature address this issue again, in the context of the current investigation, NEPGA would like to offer some thoughts on why divestiture is a viable option with real benefits for consumers, address some of the misconceptions about divestiture that arose during the legislative discussion last year, and preliminarily discuss some of the questions about divestiture that were raised in the Staff report.

Divestiture as a Viable Option

As noted above, in 2010 PSNH asked the PUC for permission to impose a non-bypassable charge on *all* of its customers – even those buying electricity from competitive suppliers – in order to recover excess energy costs stemming from PSNH's continued rate-base ownership of its generation assets. In denying this request in its Order in Docket 10-160, the PUC stated that the one proposal that does address the underlying cause motivating PSNH's request for a non-bypassable charge "is the divestiture of PSNH's hydro and fossil assets." (Order p. 39). To forestall a lengthy adjudicated proceeding over divestiture, the PUC suggested legislative resolution of the issue. The introduction of House Bill 1238 in January 2012 provided the tool for this legislative resolution and the solution to the underlying causes of PSNH's current unsustainable situation.

At that time, the Legislature was reminded that in 2003 when it decided to delay the divestiture of PSNH's assets, it did not rescind, repeal or change the policy goal of divesture, it simply provided that for so long as PSNH continued to own its fossil and hydro plants it would do so in a manner approved by the Commission to provide default service to PSNH customers. In 2003, PSNH assured the Legislature that PSNH would divest when the economics favored doing so, leading the Legislature to adopt a statutory standard for whether and when the generation assets could be divested – when the Commission finds that the sale of the assets to be in the economic interest of retail customers. Clearly the high level of sustained customer migration from PSNH default service, PSNH's plea for a nonbypassable charge from the PUC and the looming increases in compliance costs for PSNH's generation assets suggested that this statutory standard has been met and that the time had come for PSNH to pursue and the PUC to approve the divestiture of the generation assets.

During the 2012 legislative discussion, it was made clear that once PSNH's generation assets were divested, the company would still be obligated to provide power to customers remaining on default service supply. Just as is done by Unitil and Liberty Utilities, this would be done through periodic solicitation processes whereby PSNH would issue a request for proposals (RFP) for power for its default service customers, with wholesale suppliers competing to provide the supply. It is important to note that not only do the other utilities in New Hampshire supply their customers through this mechanism, but so do most of the other utilities in New England. This includes PSNH's sister companies – Connecticut Light and Power, NSTAR, and Western Massachusetts Electric Company. As illustrated earlier in these comments, customers of these companies have benefitted from the utilities not owning their generation and so are able to secure the lowest cost energy supply from the wholesale market.

Given the high level of migration from PSNH's system, the cost of service from PSNH now and going forward, and the continued stable electric pricing anticipated for the near future in New England, the standard for divestiture has clearly been met.

Benefits to New Hampshire's Consumers

When New Hampshire policy-makers began the restructuring of the state's electric market over a decade ago, they were guided by a series of principles including, among others, customer choice, universal service, benefits for all customers, full and fair competition and near-term rate relief. As the PUC, the Legislature and other policy makers consider steps to complete the transition to a fully restructured electric market, it is important to consider the goal of restructuring as detailed in RSA 374-F:3, XI:

> The goal of restructuring is to create competitive markets that are expected to produce lower prices for all consumers than would have been paid under the current regulatory system…To the greatest extent practicable, rates should approach competitive regional electric rates.

Completing electric restructuring through divestiture would allow important benefits to accrue to New Hampshire consumers, including:

- ***Shifting the Risk of Capital Investment From Consumers to Investors.*** Under the old-style monopoly regulatory model, any capital investment made on a generation asset, whether discretionary or mandated by regulatory requirements, would be recovered from ratepayers if it were deemed prudent by the Commission. Cost overruns such as those seen on PSNH's scrubber project on the coal-fired Merrimack Station, if they were prudently incurred, are generally recovered from consumers, not company investors or shareholders. Continuing the status quo would prolong this treatment for PSNH customers. Contrast this with how non-utility owned, competitive generators pursue capital investment. All other coal plants in New England are owned by competitive generators and when similar environmental investments were necessary, shareholders – not captive ratepayers – made the upgrades on plants such as Mt. Tom, Brayton Point and Bridgeport Harbor. In other cases, the economic and investment risks were weighed by companies with some making the decision to close plants.

  Separating PSNH's generation assets from its rate base would align PSNH with its sister companies in other states, and the other New Hampshire utilities, and transfer the very real risk of capital investment in generation to the shareholder and investors of competitive generation owners, not on ratepayers.

- ***Greater Transparency and Accountability of Electric Costs.*** Moving away from a system whereby PSNH uses it own power plants to serve its default service customers allows for greater transparency and accountability. Currently PSNH's generation assets meet a decreasing portion of its default customers' needs, because of their high costs. This leads PSNH to go in to the wholesale market and make both short- and long-term electric power purchases to meet its customers' needs. Unfortunately there is no transparency to this process and it is not entirely clear why decisions are made to enter into these contracts instead of using existing rate-base generation. Moving to the same procurement model as used by the other New Hampshire utilities and PSNH's sister companies in other states will allow for the necessary transparency in this process and make sure that PSNH customers receive the most competitive default service rate in the market.

- ***Continued Access to Electric Supply Choice.*** A decade ago, the New Hampshire Legislature heard the pleas of businesses and consumers and allowed all customers in the state to choose their electric supplier. Completion of the restructuring process will ensure consumers in the state continued access to make their electric supply choice as they wish, completely independent from PSNH. With increased customer migration among all of PSNH's customer classes, it will not be long before the 50 percent milestone of PSNH's load being served from competitive suppliers is reached. Once this critical mass of customers have gone to the competitive market, and if the status quo continues, there will be even more pressure from PSNH for some type of assistance in recovering generation costs – another bailout request, such as through a non-bypassable charge. If a non-bypassable charge on all customers was imposed as PSNH has asked for in the past, the availability and incentive for continued electric choice would be significantly lessened.

What Divestiture Does Not Do

During debate over the past decade regarding the completion of electric restructuring and potentially generation asset divestiture, many false arguments have been advanced that have made the process of completing electric restructuring seem unduly complicated or risky. During future debates, it is important to remember that completing electric restructuring through divestiture:

1. ***Will <u>Not</u> Force the Shutdown of PSNH's Plants –*** A vibrant market exists for the sale of generation assets. Just recently, in August 2012, Exelon announced the sale of three Maryland coal plants totaling nearly 2,600 MW for approximately $400 Million. Riverstone Holdings, LLC, the buyer of the coal plants, credited the "experienced workforce and strong record of safe and environmentally sound operation" as features making the purchase of these assets attractive. In March 2013 Brookfield Renewable Power completed the purchase of 351 MW of hydro assets from NextEra Energy for $760 Million. Also, in March 2013, the sale of three Dominion power plants, including the coal-fired Brayton Point in Massachusetts, was announced.

2. ***Will <u>Not</u> Be a "Tax" on Electric Supply –*** If the proceeds from the spin-off or the sale of the generation assets are not enough to cover the costs of the plants, any potential recovery of these costs would <u>not</u> be a "tax" on electric supply. These costs would be the uneconomic costs already incurred by PSNH, and already subject to potential recovery from ratepayers. In fact, one can argue expediting this process is prudent and absolutely necessary – lack of immediate action results in ratepayers continuing to pay for uneconomic costs for services that would be provided at lower costs after completing electric restructuring. It should also be noted that there may be questions with respect to the prudency of remaining costs that if not recovered, would then require shareholders of Northeast Utilities, the parent of PSNH, and not ratepayers to bear the burden for poor investment decisions.

3. ***Will <u>Not</u> Jeopardize Jobs –*** Generation asset buyers typically want to retain employees in an asset purchase as the employees know the plant and how best to operate it. In the recent sale of Maryland coal plants, Riverstone Holdings agreed to maintain jobs, with competitive pay and benefits for employees at the plants for these reasons. Similar arrangements existed with the sale of other New England utility plants including those in New Hampshire.

Structuring an Asset Divestiture

PUC Staff addressed the mechanics of selling PSNH's generation assets in its report, including the issue of how to package the plants. NEPGA agrees with the recommendation on page 42 of the Staff Report to sell "the plants either in groups or as one total package" and to "seek additional comments or solicitations of interest." Typically in a divestiture package all plants are offered – without necessarily grouping – and qualified bidders are invited to submit non-binding indicative bids in the first phase of the divestiture. At that time bidders can indicate how they prefer to see the plants packaged – as a whole, in groups or individually. The company managing the divestiture can review the indicative bids and see what packaging would elicit the most value and accordingly invite final binding bids. If the Commission and Legislature were to evaluate the divestiture option, it would be advisable to seek input from companies that manage generation asset divestitures in order to obtain more guidance in many of the questions raised by the Staff report and other stakeholders in the divesture process.

NEPGA'S RECOMMENDED NEXT STEPS

NEPGA believes it is imperative that executive and legislative policymakers and stakeholders work together to immediately address the urgent need to remove PSNH's generation from rate-base, as discussed in the PUC Staff report:

> "There is not a great deal of time for the State to act to address what will become an increasingly onerous burden for what comprises a majority of the states' residents and many of its smaller businesses. If it were determined that PSNH should exit the energy supply business, some of the options for facilitating that exit would take substantial effort." (Staff Report p. 3).

Several of these options were identified in the report, most notably the transfer of PSNH's fossil/hydro fleet to an affiliate at net book value. As the Staff explained:

> "Such a transfer would eliminate stranded costs as an issue, which is important, given the prevailing view that the fleet does not have positive economic value. The transfer would also eliminate contention over stranded cost sharing (Staff Report p. 4)."

Staff recommended that PSNH immediately put forth proposals to effectuate such a transfer. NEPGA urges the PUC to immediately request submission of such proposals on an expedited basis. NEPGA believes that a transfer to an affiliate would be consisted with PSNH's position on the value of the generation assets. Regardless of the timing of such a submission, however, NEPGA recommends a collaborative process that includes executive and legislative leadership, with input from key stakeholders to consider the issues in the PUC Staff report, and resulting comments filed in order to expediently develop a plan for moving forward with the completion of electric restructuring in the state. NEPGA recommends the following timeline:

- ***July/August 2013 –*** PSNH to submit proposals to transfer its generation assets to affiliates.
- ***August through December 2013*** – collaborative policymaker/stakeholder process to consider the issues raised in the Staff Report, in comments and any PSNH affiliate proposals, and to develop a plan for completing electric restructuring, and addressing transition issues such as stranded cost recovery by December 2014.
- ***December 2013 through June 1, 2014*** – following the recommendations from the collaborative group, the Legislature would take any necessary legislative actions while the PUC would open a docket to address any necessary regulatory issues to allow for the functional unbundling process to begin in June 2014. Both the legislative and regulatory process would be completed by June 1, 2014.
- ***June through December 2014*** – the value of the PSNH generation assets would be determined through a market process leading to the functional unbundling of the generation assets from the distribution function either through a transfer to an affiliate or through a sale to a third party.

Clearly there is a sense of urgency. PSNH is nearing the point where 50 percent of its load has migrated to competitive suppliers. With the pending recovery of the Merrimack scrubber investment, and new compliance costs related to its generation asset ownership looming, there will be continuing higher costs to be allocated to fewer remaining customers. Unless the PUC immediately initiates action to address the status quo, "taking no action threatens to leave a dwindling yet still substantial number of the state's residents and small businesses facing ever higher costs for service relative to market alternatives and could eventually threaten the financial health of PSNH" (Staff

Report p. 2). This is not a desirable outcome for any stakeholder, most importantly consumers, and should be avoided under any scenario.

We appreciate your consideration of our comments and trust that we will have the opportunity to file additional or responsive comments in any future inquires or proceedings initiated as a result of the Staff Report. In the meantime, please contact us should you have any questions.

Sincerely,

Dan Dolan
President
New England Power Generators Association