

STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION
Docket No. DE 13-108
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
Annual Reconciliation of Energy Service and Stranded Costs for 2012

**CONSERVATION LAW FOUNDATION’S MOTION TO COMPEL
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE TO RESPOND TO
DATA REQUEST SET 1, REQUEST 1**

NOW COMES the Conservation Law Foundation (“CLF”), an intervenor in this docket, and moves this Honorable Commission, pursuant to Admin. Rule Puc 203.09 (i), to compel Public Service Company of New Hampshire (“PSNH”) to fully and completely respond to and provide documents requested by the Conservation Law Foundation Data Request Set 1, Request 1, submitted to PSNH on August 26, 2013. In support of its motion CLF states as follows:

1. In accordance with the procedural schedule in this docket on August 26, 2013, CLF submitted a data request to PSNH seeking information and documents related to PSNH’s operation of its electric generation units at Merrimack and Schiller Stations, the economic effects of such operation to its customers and in particular, the operating instructions PSNH provided to ISO-NE, the regional grid system operator. Specifically, CLF’s data request stated,

CLF – 1 For each day during the calendar year 2012, please provide the dispatch / operating instructions, including without limitation: a) market offers, b) declaration of schedule and if applicable, the dispatchable range provided with any such instructions, provided by PSNH to ISO-NE for each unit at Merrimack and Schiller Stations. Please provide copies of PSNH’s log and/or records for each submitted dispatch / operating instruction.

2. On September 5, PSNH objected stating,

PSNH objects to the question on the basis that it is unduly burdensome because it would require the collection and compilation of voluminous detailed data. Moreover, the question is not relevant to the proceeding nor is it calculated to lead to the discovery of evidence admissible in the proceeding. Further, the requested information is confidential and proprietary, and disclosing the information could adversely affect PSNH's future ability to effectively participate in the marketplace.

After receiving PSNH's objection, CLF engaged in several communications with PSNH by telephone and electronic mail in a good faith yet unsuccessful attempt to avoid a discovery dispute and resolve this matter informally as required by Puc 203.09(i)(4). During said communications, CLF clearly conveyed its willingness to enter into a non-disclosure agreement to maintain confidentiality and prevent disclosure of PSNH's responsive information, and to review the responsive information if made available.

3. CLF's request seeks information which is directly relevant to the prudence review being conducted by the Commission in this docket. This docket addresses the prudency of PSNH's operations of its generating units and the extent to which it is entitled to cost recovery from its customers for such operations. As the Commission noted in its "Order Defining Scope of the Proceeding and Granting [CLF's] Motion to Intervene" (Order 25,540, July 9, 2013),

The subject of this docket is the annual filing by PSNH to reconcile the revenues and expenses associated with its stranded cost recovery and the power generation and supplemental power purchases for 2012. Reconciliation involves a retrospective analysis of revenues and expenses associated with PSNH's stranded cost recovery and the power generation and supplemental power purchases for 2012. (emphasis added)

4. PSNH's market offers (i.e., the price at which it offered its power in ISO-NE's day ahead market in 2012) for each of its generating units directly bears on PSNH's market revenues, and the extent to which it was more economic and prudent for PSNH to satisfy its default energy

service customers needs with power generated by its owned units or through market purchases. The cost at which PSNH instructed ISO-NE that it was available for dispatch within the wholesale market, and the extent to which the energy payments PSNH received during such periods of operation were sufficient to cover its costs -the same costs for which it is seeking ratepayer recovery - are being reconciled in this docket. CLF's request also seeks information regarding the extent to which PSNH "self-scheduled" its units and thus operated them and collected the locational marginal (clearing) price irrespective of whether said clearing price covered its costs.

5. In this regard, PSNH has acknowledged that in prior years, it frequently operates its units at a loss due to operational and other considerations. Attachment A to this Motion is a true and accurate copy of PSNH's response to a data request in Docket 10-261, wherein PSNH states that in 2010, it operated its units for approximately 1,766 hours "when a unit is dispatched and its output is sold into the ISO-NE spot market when the clearing price (LMP) is lower than PSNH's marginal cost for producing the energy." Because PSNH's above market costs are generally recovered from its customers, during such times PSNH's customers are essentially subsidizing ratepayers throughout New England through PSNH's provision of power into the grid at wholesale rates below its cost to generate said power.¹

6. In its report in Docket IR 13-020, as accepted by the Commission,² Staff noted that "from a competitive standpoint, Merrimack is substantially behind Brayton Point in the dispatch order, and that Schiller and Newington are even further behind." The Staff Report (at Figure 8, p. 20)

¹ CLF is not at this point asserting that PSNH's operation of its generating units at a loss is per se imprudent. There are many potentially valid reasons why the units may operate at a loss. CLF raises this to make a threshold showing of the relevance of the data CLF requested.

² Report on Investigation into Market Conditions, Default Service Rate, Generation Ownership and Impacts on the Competitive Electricity Market (June 7, 2013) (the "Staff Report") at p. 21.

included a representation of the ISO-NE Supply Curve using 2011 data, which clearly illustrates that Merrimack and Schiller both have substantially higher costs of production than does Brayton Point, and in fact, that Schiller is the most costly coal-fired power plant in the ISO-NE system. As shown in the following table, compiled from Environmental Protection Agency and Energy Information Administration data, Merrimack operated at a higher capacity factor than Brayton Point in both 2012 and 2011. The data requested by CLF will inform the reasons for and cost to ratepayers of Merrimack's operations in 2012.

Coal Plant Capacity Factors 2005-2012

<i>Unit</i>	<i>Capacity (MW)</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
Brayton Point 1	241.0	91%	81%	97%	87%	74%	84%	45%	32%
Brayton Point 2	241.0	97%	91%	90%	94%	80%	84%	33%	19%
Brayton Point 3	642.6	78%	72%	87%	80%	78%	61%	38%	18%
Bridgeport Harbor 3	400.0	81%	84%	70%	86%	31%	37%	15%	4%
Merrimack 1	113.6	98%	87%	103%	86%	91%	73%	64%	40%
Merrimack 2	345.6	76%	82%	80%	71%	54%	69%	49%	30%
Mount Tom 1	136.0	93%	84%	101%	95%	48%	45%	10%	10%
Salem Harbor 1	81.9	89%	87%	81%	57%	55%	47%	23%	
Salem Harbor 2	82.0	90%	82%	77%	55%	42%	42%	8%	18%
Salem Harbor 3	165.7	78%	75%	59%	29%	49%	52%	30%	
Schiller 4	50.0	79%	73%	86%	81%	62%	57%	31%	12%
Schiller 6	50.0	83%	79%	76%	83%	59%	55%	29%	12%

Sources:

EPA Air Markets Program Data 2005-2012.

EIA Form 860 2010.

7. Providing the responsive information will not be unduly burdensome. In docket DE 10-261, PSNH responded to a similar data request by CLF for the same data for calendar year 2010 and agreed to provide the responsive information, subject to execution of a nondisclosure agreement. A complete copy of the text of the data request and PSNH's response is provided below.

Data Request CLF-02

Docket No. DE 10-261 Dated: 05/23/2011

Q-CLF-005

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Witness:

Request from: Conservation Law Foundation

Question:

For each day during the year immediately prior to the 2011-2015 planning period, please detail the dispatch / operating instructions, including without limitation market offers, declaration of schedule and if applicable, the dispatchable range provided with any such instructions, provided by PSNH to ISO-NE for each unit at Merrimack and Schiller Stations. If PSNH plans to change any of its relevant practices, during the planning period, please state so and explain the planned changes. Please provide copies of PSNH's log and/or records for each submitted dispatch / operating instruction.

Response:

The information contained in the response to this question is highly confidential and sensitive business information, the disclosure of which would harm PSNH and its customers. The response will disclose PSNH's proprietary strategies for bidding its generation and power supply resources into the ISO New England markets. PSNH will provide the response to this request to CLF upon execution by PSNH and CLF of a Nondisclosure Agreement substantially similar to the attached and under the condition that CLF returns to PSNH all copies of all the confidential documents provided to CLF Attorney Hoffer under a previous Confidentiality Agreement dated on November 17, 2010 in Docket DE 10-121.

8. The long-standing standard that the Commission uses to evaluate discovery requests is whether the information being requested is relevant to the proceeding or reasonably calculated to lead to the discovery of admissible evidence. *Re Verizon New England, Inc., et al*, 92 NH PUC 234, 236 (2007). The request at issue here clearly passes the first part of this test as it is critical for the Commission and the parties to understand how PSNH is effectuating the dispatch of its units and the economic impacts to ratepayers of its actions. Without this information, it will not be possible to determine whether the costs incurred by PSNH, which it seeks to impose on its customers, were prudently incurred.

WHEREFORE, CLF respectfully requests that the Commission:

A. Compel PSNH to provide and complete response to the foregoing CLF Data Request Set 1, Request 1.

B. Grant such further relief as it deems appropriate.

Respectfully submitted,

CONSERVATION LAW FOUNDATION

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Dated: September 26, 2013

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motion has on this 26th day of September 2013 been sent by email to the service list in Docket No. DE 13-108.



Christophe G. Courchesne (NH Bar No. 20431)
Staff Attorney, Conservation Law Foundation

Attachment A

**Public Service Company of New
Hampshire
Docket No. DE 10-261**

Data Request CLF-02

**Dated: 05/23/2011
Q-CLF-003
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**Witness: David A. Errichetti
Request from: Conservation Law Foundation**

Question:

Refer to IRP Section III, Page 33, the statement that “each day normally includes a number of hours in which PSNH has surplus supply that is sold into the ISO-New England spot market.” Please state whether PSNH sells power into the spot market during hours when the ISO-NE clearing price is lower than PSNH’s marginal cost for producing energy at any of its then operating generating units. Please provide the amount of aggregate time, in hours, during which PSNH sold power from any of its units into the spot market for hours in which the ISO-NE clearing price was lower than PSNH’s marginal cost for producing energy at any of its operating generating units for each hour during the year immediately prior to the 2011-2015 planning period. If PSNH plans to change any of its relevant practices, as discussed above, during the planning period, please state so and explain the planned changes.

Response:

There are hours when a unit is dispatched and its output is sold into the ISO-NE spot market at a time when the clearing price (LMP) is lower than PSNH's marginal cost for producing the energy. These situations can occur when it is less costly for PSNH, on a net basis, to continue to run the unit during those hours than it would be to shut the unit down and bring it back on given the unit's operating characteristics (e.g., minimum down time, minimum run time). In these instances shutting the unit down would cost more than keeping it online because the costs to cycle the unit off and on plus any lost hours of economic operation due to unit operating characteristics exceed the "loss" that will be incurred by running the unit during hours when its marginal cost exceeds the LMP. Therefore, it makes economic sense to continue to operate the unit during those hours, since the net cost is lower than the cost PSNH would incur if it shut the unit down.

This situation may also occur when ISO-NE dispatches a unit out of merit to provide operating reserves or to meet some short term reliability need and it receives net commitment period compensation (NCPC) and may occur when a unit is generating due to operational considerations.

PSNH has estimated that 3.4% of total resource generation (as defined in PSNH's ES cost reconciliation process) aggregated over 1,766 hours was sold into the spot market for the subject time period under the stated conditions. In estimating this amount, PSNH utilized after-the-fact dispatch prices based on fuel accounting costs to develop single annual dispatch prices for the units. Since this number was an estimate, the analysis did not reflect each unit's hourly marginal cost but rather an indicative price for the year that included all start/shutdown charges, no-load costs and incremental load costs.