

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 13-108**

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE**

**Reconciliation of Energy Service and Stranded Costs for Calendar Year 2012**

**Order Defining Scope of the Proceeding and Granting Motion to Intervene**

**ORDER NO. 25,540**

**July 9, 2013**

**APPEARANCES:** Matthew J. Fossum, Esq. on behalf of Public Service Company of New Hampshire, the Office of Consumer Advocate by Susan A. Chamberlin, Esq. on behalf of residential ratepayers, and Suzanne G. Amidon, Esq. on behalf of Commission Staff.

**I. PROCEDURAL HISTORY**

On April 10, 2013, Public Service Company of New Hampshire (PSNH) requested that the Commission open a docket for the annual reconciliation of PSNH's energy service and stranded costs for the calendar year 2012. The Office of Consumer Advocate (OCA) filed a letter on April 17, 2013, informing the Commission of its intent to participate in this docket pursuant to RSA 363:28. On May 9, 2013, PSNH filed testimony and schedules in support of its proposed reconciliation of revenues and costs associated with its energy service charge and stranded cost recovery charge for calendar year 2012. The Commission issued an Order of Notice on May 15, 2013, scheduling a prehearing conference and subsequent technical session on June 13, 2013. PSNH filed its affidavit of publication for the order of notice on May 23, 2013.

On June 10, 2013, Conservation Law Foundation (CLF) filed a petition to intervene. PSNH filed an objection to CLF's petition to intervene on June 13, 2013.

The prehearing conference was held as scheduled on June 13, 2013, before Commissioner Amy L. Ignatius. PSNH, OCA, and Staff participated. CLF did not appear. On June 13, 2013, Staff filed a report of the technical session that followed the prehearing conference and submitted a proposed procedural schedule for the docket, with the agreement of all participants, as follows:

Set 1 Discovery on PSNH's Filing	July 19, 2013
PSNH's Response to Discovery	August 9, 2013
Set 2 Discovery on PSNH's Filing	August 26, 2013
PSNH's Responses to Discovery	September 11, 2013
Technical Session	October 1, 2013 at 9:00 a.m.
Staff/OCA/Intervenor Testimony	November 15, 2013
Discovery on Staff/OCA/Intervenor Testimony	November 25, 2013
Responses to Discovery	December 9, 2013
Technical Session/Settlement Conference	December 13, 2013 at 9:00 a.m.
Rebuttal Testimony	January 10, 2014
Hearing on the Merits	January 23, 2014 at 10:00 a.m.

## **II. POSITIONS OF THE PARTIES**

### **A. Conservation Law Foundation**

CLF states that it is a membership organization that, among other things, represents the interests of its members in ensuring that environmental impacts resulting from the generation, production, distribution, and /or use of electricity in New Hampshire and the region are minimized. CLF states that its membership exceeds 3,000 members. CLF states that approximately 350 of those members live in New Hampshire, and further claims that the economic interests of its New Hampshire members as ratepayers are directly affected by this proceeding. CLF also claims that intervention will permit CLF to protect its members' substantial interests in the environmental and public health impacts resulting from PSNH's use of its generating resources and market purchases to supply its customers.

### **B. Public Service Company of New Hampshire**

PSNH objects to intervention. PSNH characterizes CLF's interests as relating only to environmental issues which are excluded from consideration in reconciliation dockets and as not relating to the economic, revenue and expense issues which the Commission has previously stated are the focus of proceedings such as this. *See* Order No. 25,375 (June 18, 2012) at 4-5. In the alternative, PSNH requests that CLF's participation in the docket be limited to the issues relevant to a reconciliation filing.

### **III. COMMISSION ANALYSIS**

The Commission considers petitions to intervene in accordance with the standards of RSA 541-A:32. *See* NH Code Admin. Rules Puc 203.17. The Commission reviews the facts alleged in the petition and determines whether the petition has demonstrated "rights, duties, privileges, immunities or other substantial interests [that] may be affected by the proceeding . . ." RSA 541-A:32, I(b). If it finds that the petition meets this test, and that the intervention would not impair the orderly and prompt conduct of the proceeding, then the Commission grants intervention. RSA 541-A:32, I(c). We find that the substantial interests of CLF may be affected by this proceeding, through its members that are PSNH ratepayers. We also find that CLF's intervention will not impair the orderly conduct of the proceeding so long as CLF refrains from exceeding the scope of the proceeding and the proper areas of inquiry as clarified below.

The scope of this docket is limited by its subject. 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. Reconciliation is

necessary because PSNH is authorized to recover its “actual, prudent, and reasonable costs” of providing service as approved by the Commission. RSA 369-B:3, IV(b)(1)(A). Each December, the Commission establishes energy service and SCRC rates for PSNH customers based on a review of PSNH’s estimates of what costs will be in the next twelve months. Reconciliation allows PSNH to compare its estimated revenues and expenses with those actually incurred for the prior calendar year, and either credit an over-recovery back to customers or include an under-recovery amount in rates.

When these reconciliation filings are made, a prudence review is conducted to determine whether the Company should recover from ratepayers the costs claimed for a prior year. In connection with the costs of PSNH’s generation fleet, the Commission reviews the planned outages and associated power purchases to determine whether PSNH acted in a prudent and reasonable manner. Similarly, with unplanned outages, the Commission investigates the cause of the outages and the associated replacement power purchases to assess whether PSNH could have taken reasonable steps to avoid the outages and to understand whether PSNH made purchases for replacement power that provided reasonable value to its customers. In so doing, the Commission also determines the extent to which costs claimed by PSNH should be recovered from customers. Therefore, 2012 plant performance, plant outages, replacement power purchases, and other purchases of power and capacity and stranded cost recovery are included in the scope of this docket. Also, the prudence and reasonableness of PSNH’s incurred capital costs, and whether PSNH has otherwise appropriately accounted for and reconciled its energy service and stranded costs and any offsetting revenues for the period considered in accordance

with the Restructuring Agreement<sup>1</sup> and applicable law, are included in the scope of this docket.

Prospective costs are not considered in a reconciliation docket. With the exception of whether power purchases and generation decisions are consistent with the company's least cost integrated resource plan (LCIRP), PSNH's planning process and least cost procurement protocols will not be considered. Least cost planning, forecasts of power needs, costs, or related factors are considered in the context of PSNH's LCIRP filed pursuant to RSA 378:37 and 378:38, and will be considered in the context of an LCIRP docket or in a future energy service rate setting docket, as appropriate. Likewise, while the Commission appreciates that CLF's mission is primarily environmental, any environmental-compliance issues or environmental and health impacts associated with the operation of PSNH's generation fleet are beyond the scope of this docket. The Public Utilities Commission does not review or enforce environmental laws that should properly be reviewed by the New Hampshire Department of Environmental Services, the U.S. Environmental Protection Agency, or the courts. CLF, and all parties, must limit their discovery, testimony and examination to remain within the scope described herein.

We understand that the proposed procedural schedule contemplates that discovery will be issued on July 19, 2013. To the extent that there are disputes regarding the scope of discovery as described above, we will promptly act on motions to compel and objections. We have determined that the proposed schedule is in the public interest, and therefore approve it.

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

**ORDERED**, that the scope of the proceeding shall be as specified in the body of this Order; and it is

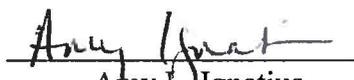
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<sup>1</sup> Agreement to Settle PSNH Restructuring in Docket No. DE 09-099 (Restructuring Agreement). See, *PSNH Proposed Restructuring Settlement*, 85 NH PUC 154, 85 NH PUC 536 and 85 NH PUC 645 (2000).

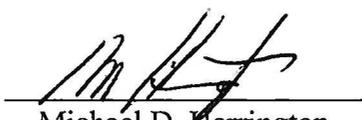
**FURTHER ORDERED**, that the procedural schedule proposed by Staff on June 13, 2013 is hereby APPROVED; and it is

**FURTHER ORDERED**, that Conservation Law Foundation's petition to intervene is hereby GRANTED.

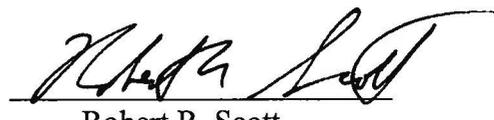
By order of the Public Utilities Commission of New Hampshire this ninth day of July, 2013.



Amy L. Ignatius  
Chairman

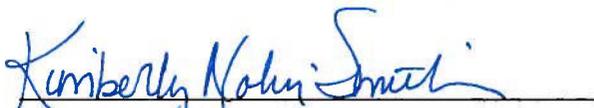


Michael D. Harrington  
Commissioner



Robert R. Scott  
Commissioner

Attested by:



Kimberly Nolin Smith  
Assistant Secretary

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**SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED**

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Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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