

## 1 STATE OF NEW HAMPSHIRE

## 2 PUBLIC UTILITIES COMMISSION

3  
4 **January 27, 2014 - 9:09 a.m.**  
Concord, New Hampshire

DAY 2

5 NHPUC FEB10'14 PM 3:32

6 RE: DE 13-108  
7 PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE:  
8 *Annual Reconciliation of Energy Service*  
9 *and Stranded Cost for 2012.*10 **PRESENT:** Chairman Amy L. Ignatius, Presiding  
11 Commissioner Robert R. Scott  
12 Commissioner Martin P. Honigberg

13 Clare Howard-Pike, Clerk

14 **APPEARANCES:** **Reptg. Public Service of New Hampshire:**  
15 Matthew J. Fossum, Esq.16 **Reptg. the Conservation Law Foundation:**  
17 Christophe Courchesne, Esq.18 **Reptg. Residential Ratepayers:**  
19 Susan Chamberlin, Esq., Consumer Advocate  
20 Stephen R. Eckberg  
21 Office of Consumer Advocate22 **Reptg. PUC Staff:**  
23 Suzanne G. Amidon, Esq.  
24 Steven E. Mullen, Asst. Dir./Electric Div.  
Michael D. Cannata, Jr., Accion Group

Court Reporter: Steven E. Patnaude, LCR No. 52

ORIGINAL

## I N D E X

	PAGE NO.
<b>OFFER OF PROOF BY MR. FOSSUM REGARDING DETAILS OF THE \$900,000 CHARGES RELATED TO NSTAR ELECTRIC &amp; GAS</b>	5
<b>QUESTIONS BY:</b>	
Cmsr. Honigberg	7
Cmsr. Scott	10
Chairman Ignatius	12
Ms. Chamberlin	14
<b>WITNESS:                                   STEPHEN R. ECKBERG</b>	
Direct examination by Ms. Chamberlin	16
Cross-examination by Mr. Fossum	24
Cross-examination by Mr. Courchesne	44
Cross-examination by Mr. Mullen	47
Interrogatories by Cmsr. Scott	69
Interrogatories by Cmsr. Honigberg	73
Interrogatories by Chairman Ignatius	76
Redirect examination by Ms. Chamberlin	80
<b>STATEMENTS REGARDING MAKING THE EXHIBITS FULL EXHIBITS BY:</b>	
Mr. Fossum	83
Mr. Courchesne	84
Ms. Chamberlin	85
Ms. Amidon	85
<b>CLOSING STATEMENTS BY:</b>	
Mr. Courchesne	87
Ms. Chamberlin	95
Ms. Amidon	99
Mr. Fossum	103

**E X H I B I T S**

EXHIBIT NO.	D E S C R I P T I O N	PAGE NO.
11	Testimony of Stephen R. Eckberg, with attachments (11-20-13)	19
12	PSNH Response to Data Request OCA-01, Q-OCA-002 (07-19-2013)	20
13	OCA Response to Technical Session Data Request No. TS 3-1 (12-20-2012 [2013?])	21
14	PSNH Response to OCA Data Request Set 2, Q-OCA-002, including the cover letter (09-11-13)	22
15	OCA Response to PSNH Data Request Set 1, Request No. PSNH 1-25 (12-09-12 [2013?])	41
6	<b>NOTE FOR THE RECORD - Exhibit 6</b> was revised to include only <b>Technical Session Request</b> <b>No. Q-TS-02-007</b> , and <i>OCA Request 9</i> was withdrawn from <b>Exhibit 6</b> as it already exists as an attachment to Mr. Cannata's testimony ( <b>Exhibit 5</b> ), at <u>Bates Pages 288 &amp; 289</u>	86

**P R O C E E D I N G**

1  
2 CHAIRMAN IGNATIUS: Welcome, everyone.  
3 We're back on the continuation of the hearing on the  
4 merits in Docket DE 13-108. This is Public Service  
5 Company of New Hampshire's 2012 Reconciliation of its  
6 Energy Service and Stranded Cost Recovery Charges. We  
7 don't need to take appearances again. We've got, as I  
8 recall where we left off, we were still to hear from  
9 Mr. Eckberg, both direct and cross-examination. And, the  
10 only other evidentiary matter that I recall, though,  
11 please help me if there's something else, was for some  
12 further discretion -- excuse me, further description from  
13 PSNH about tracking the identification of the monies at  
14 stake and the services rendered from the NSTAR affiliate.  
15 Did I get that right?

16 MR. CHUNG: Yes.

17 CHAIRMAN IGNATIUS: And, that could be  
18 through an offer of proof from Mr. Fossum, it could be  
19 through one of the PSNH witnesses. My thought was to do  
20 that before Mr. Eckberg testifies, if that's all right  
21 with everybody. And, then, there may be other issues as  
22 well to take up before Mr. Eckberg. Is there anything  
23 else we'll want to do before he takes the stand?

24 (No verbal response)

1                   CHAIRMAN IGNATIUS:  Doesn't look like  
2     it.  Okay.  And, then, I think afterwards the next thing  
3     would be to address any issues on the exhibits.  And,  
4     then, finally, closings, oral closings on all issues,  
5     except the issue of what we were calling the sort of  
6     "partial used and useful" standard, that that would be in  
7     written filings.  Is that everyone's expectation for this  
8     morning?

9                   MR. FOSSUM:  Yes.

10                  MS. AMIDON:  That's fine.

11                  CHAIRMAN IGNATIUS:  Good.  Then,  
12     Mr. Fossum, do you want to -- how do you want to present  
13     the information?  Are you ready yet today to make that  
14     showing?

15                  MR. FOSSUM:  Yes.  It was my intention  
16     to do so by offer of proof.  And, for the record, we  
17     understood the Commission's question to be, in so many  
18     words, "where in the filing could one locate the service  
19     company charges that have been discussed?"  And, I would  
20     note a couple of things about the filing is that service  
21     company charges have been included in these filings for  
22     years, and in the same manner, accounted for and reported  
23     in the same manner for years.  And, I would also note that  
24     something that I think was made clear from the testimony

1 is that the NSTAR charges that we've talked about came  
2 through NUSCO. They were not direct from NSTAR to PSNH.  
3 So, there is no line item that identifies "NUSCO" -- or,  
4 I'm sorry, "NSTAR Service Company charges" in the filing.

5 So, with that said, what I would inform  
6 the Commission about is that the costs associated with the  
7 administrative and general service company charges,  
8 including things like legal, accounting, financial,  
9 treasury, human resources, the items that are covered by  
10 the service agreements, they are in the initial filing,  
11 the May 9th filing. They're included in the amounts shown  
12 on MLS-4, Page 7, Line 3. That's Bates Page 20. So,  
13 they're included in the line that's described there as  
14 "F/H", Fossil/Hydro, "O&M, depreciation and taxes". And,  
15 there's a slightly more detailed breakdown of those  
16 amounts on MLS-4, Page 13, at Line 2, which is Bates Page  
17 49.

18 CHAIRMAN IGNATIUS: I'm sorry. Page 49?

19 MR. FOSSUM: Correct. So, in the Line 2  
20 there, which -- "F/H", the fossil/hydro operation and  
21 maintenance cost, all of the service company charges  
22 through NUSCO are included in that line item. And, that's  
23 the way that PSNH has been reporting those charges for as  
24 long as anybody can remember. And, to the best of my

1 understanding, there's no further breakdown of those  
2 amounts.

3 CHAIRMAN IGNATIUS: So, the dollars in  
4 question are within these. It's not --

5 MR. FOSSUM: Correct.

6 CHAIRMAN IGNATIUS: These line items  
7 show far more than the \$900,000 we've been talking about?

8 MR. FOSSUM: That's correct. The  
9 900,000 came about through requests and discovery. And,  
10 there was a request that PSNH quantify those charges. So  
11 that the 900,000 was PSNH's quantification of those  
12 specific charges to the best of its ability.

13 CHAIRMAN IGNATIUS: Commissioners,  
14 questions? Commissioner Honigberg.

15 CMSR. HONIGBERG: I think I heard you  
16 say that "this was billed through NUSCO as it has been in  
17 the past", is that right?

18 MR. FOSSUM: No. That's not exactly  
19 accurate. Up until April of 2012, there was no NSTAR  
20 Service Company charges at all. It was only NUSCO. And,  
21 so, if there was an expectation that there was going to be  
22 some new line item for NSTAR charges, what I was  
23 indicating is "no, there is not be the" -- is not be --  
24 "there would not be that line item, because any service

1 company charges would be included in the NUSCO amounts,"  
2 which is what has been done previously. And, there was  
3 testimony earlier, both written and oral, that the PSNH  
4 contract is with NUSCO. And, to the extent that services  
5 were rendered by NSTAR Electric & Gas, the charges flowed  
6 through NUSCO. So, there's no -- there isn't any "NSTAR"  
7 line item, just as there never had been before NSTAR was  
8 in the picture.

9 CMSR. HONIGBERG: I may have said it  
10 differently, but that's what I understood the situation to  
11 be. So, PSNH's arrangement internal is with PSNH -- I'm  
12 sorry, was with NUSCO. And, NUSCO has a separate  
13 arrangement with NSTAR to do the things that NUSCO used to  
14 do?

15 MR. FOSSUM: Yes. Yes, that's my  
16 understanding. Is that, to the extent that all services  
17 had previously been provided by NUSCO, at the time of the  
18 merger some of those services were thereafter provided by  
19 NSTAR Electric & Gas, pursuant to an agreement between  
20 NSTAR Electric & Gas and NUSCO.

21 CMSR. HONIGBERG: Does the \$900,000  
22 comport roughly with the types of charges that PSNH saw in  
23 previous years for the same types of services?

24 MR. FOSSUM: That I don't know. As I

1 said, there was a quantification that we undertook to get  
2 to the 900,000. But I don't know of -- there was no  
3 further breakdown of that information. So, exactly how it  
4 would compare to prior years, I can't say. My  
5 understanding is that it is, I think, an incremental  
6 increase, but I don't know by how much.

7 CMSR. HONIGBERG: Is it possible for  
8 someone to know what PSNH got for its money? What did it  
9 get for \$900,000? You gave me general topics, general  
10 headings of "legal", "accounting", "financial", and types  
11 of "overhead types of expenses". But, if someone were to  
12 ask "what did they get for their money?", is that as good  
13 as an answer as we're going to get?

14 MR. FOSSUM: For now, yes, that's as  
15 detailed as I can get. Whether there could be --  
16 certainly, there could be a further breakdown, if there  
17 was an audit of all of those costs. But exactly at what  
18 level of detail that would get into, I don't -- I don't  
19 know exactly how detailed it would be. Some of the costs  
20 are direct charge, some from allocation. So, even after  
21 an audit, there would be some level of allocated costs  
22 that couldn't be traced back to an exact provision of a  
23 precise service.

24 CMSR. HONIGBERG: Okay. Thanks.

1 CHAIRMAN IGNATIUS: Commissioner Scott.

2 CMSR. SCOTT: Thank you. And, good  
3 morning. So, moving forward, this shouldn't be an issue  
4 because of the merger, is that correct?

5 MR. FOSSUM: As of January 1st, 2014,  
6 NSTAR Gas & Electric no longer exists. And, all services  
7 are provided by NUSCO. And, NUSCO is the only entity to  
8 provide services, except to the extent that NUSCO, within  
9 its discretion, may determine that it would obtain  
10 services elsewhere, which is consistent with the prior  
11 contracts that PSNH has had with NUSCO.

12 CMSR. SCOTT: So, moving forward then,  
13 there should be no issues of transparency for, and, again,  
14 I'm not sure I'm talking auditing to the penny, but there  
15 should be no issues of the sort we're talking about now,  
16 does that sound correct to you? Is that correct?

17 MR. FOSSUM: Well, I guess then, yes,  
18 going forward, the only costs that would be in this  
19 category would be costs as between PSNH and NUSCO alone,  
20 subject to whatever audit or review may be done on those  
21 costs specifically.

22 CMSR. SCOTT: Okay. And, again, if I  
23 understand correctly, going back to this docket, there  
24 seemed to be some difficulty with a full cost accounting

1 for the 900,000, is that correct?

2 MR. FOSSUM: Well, as I said, there was  
3 a request that there be a quantification of those amounts,  
4 and that was PSNH's quantification of those amounts. I'm  
5 not certain what you mean by a "full cost accounting".  
6 PSNH didn't undertake a full study to determine down to  
7 the penny where every charge existed and where every  
8 dollar went, no.

9 CMSR. SCOTT: I guess what I'm trying to  
10 get is a better level of assurance. Again, I'll mimic  
11 Commissioner Honigberg's question is that, you know, did  
12 we get what we paid for? Did you get what you paid for?  
13 You know, we're talking broad brush things. I understand  
14 there's not a to-the-penny cost accounting. I understand  
15 that, I think. You know, can we put this in buckets by  
16 order of magnitude of, you know, roughly a third of that  
17 was this, that type of thing? Or, you know, how close can  
18 we get here to give people an assurance?

19 MR. FOSSUM: I'm not certain. I guess  
20 that would depend on the questions asked and what  
21 information was precisely requested. As I say, these  
22 costs have been accounted for through these dockets in  
23 exactly this way for years, and, you know, subject to  
24 questions being asked about them. We could provide some

1 increased level of detail. But the question that we were  
2 asked was to quantify the NSTAR charges, and that's the  
3 detail that we provided in this docket. Whether there  
4 could be a full cost accounting of that, I'm sure -- I'm  
5 sure a greater degree of specificity could certainly be  
6 obtained. But PSNH has not been asked to provide that.

7 CMSR. SCOTT: Okay. Thank you.

8 CHAIRMAN IGNATIUS: I think you said  
9 this, but let me just be certain. The costs we're talking  
10 about here were provided by NSTAR Gas & Electric to NUSCO,  
11 rather than NUSCO directly providing them to PSNH,  
12 correctly -- correct?

13 MR. FOSSUM: The services were provided  
14 to PSNH. But the charges for those services came through  
15 NUSCO, because that was the entity with whom PSNH had the  
16 agreement.

17 CHAIRMAN IGNATIUS: And, the types of  
18 services are the same as what NUSCO has done in the past,  
19 and, in fact, NUSCO did the vast bulk of the services that  
20 are included in the items that you identified on those two  
21 pages, correct?

22 MR. FOSSUM: That is correct.

23 CHAIRMAN IGNATIUS: And, a small portion  
24 came from NSTAR Gas & Electric?

1 MR. FOSSUM: Exactly what portions, I  
2 don't know. So, whether it's "vast bulk" or "small  
3 portion", I don't know. But I believe the majority of the  
4 services were provided by NUSCO directly, and that there  
5 were some other services provided by NSTAR Gas & Electric,  
6 which were billed to PSNH through its contract with NUSCO.

7 CHAIRMAN IGNATIUS: Other than the fact  
8 that the service provider for some of those services was  
9 NSTAR Gas & Electric to NUSCO, is there anything different  
10 about those services?

11 MR. FOSSUM: Nothing that I am aware of,  
12 no.

13 CHAIRMAN IGNATIUS: And, is there  
14 anything different about the charges for those services  
15 than what's been done in the past, other than who the  
16 entity who was the ultimate provider of those services?

17 MR. FOSSUM: My understanding is that  
18 the charges were rendered in the same fashion as they had  
19 been rendered in the past. Whether the amounts may be  
20 somewhat different than in prior years, I would expect  
21 them to be somewhat different. But my understanding is  
22 that the accounting for them was the same as it has always  
23 been.

24 CHAIRMAN IGNATIUS: There was no new

1 allocation system created for these charges different from  
2 the other normal NUSCO charges?

3 MR. FOSSUM: There were allocation  
4 systems in place in 2012 when the merger began. There  
5 were no new allocation systems created that I am aware of  
6 at that time. There were allocation systems from both  
7 companies, that is NUSCO and NSTAR Electric & Gas. But,  
8 ultimately, all of the charges flowed to PSNH through its  
9 contract with NUSCO.

10 CHAIRMAN IGNATIUS: I have no other  
11 questions. This is a little unusual. So, I will ask if  
12 any of the parties have any clarifying questions that you  
13 would need to raise? I don't really want to be  
14 cross-examining, Mr. Fossum. But, if there's anything  
15 that you want to ask to clarify what he's just described,  
16 I'll consider the question? Mr. Courchesne, no?

17 MR. COURCHESNE: I don't have any  
18 further questions on this.

19 CHAIRMAN IGNATIUS: Ms. Chamberlin?

20 MS. CHAMBERLIN: I have a question.  
21 Going forward, should NUSCO receive services from another  
22 affiliate, such as Connecticut Light & Power or Northern  
23 Pass, do you feel the need to have an affiliate agreement  
24 in place or could those charges be funneled through NUSCO

[WITNESS: Eckberg]

1 as the NSTAR charges were?

2 CHAIRMAN IGNATIUS: I think that's a  
3 fair question.

4 MR. FOSSUM: Well, my understanding is  
5 that the agreement that we have with -- that PSNH has with  
6 NUSCO, which is, in substantial form, the same as it has  
7 been for many, many years now, does permit NUSCO to obtain  
8 services in its discretion from other service providers.  
9 That may include affiliates. Whether that will happen, I  
10 do not know. And, there may be charges that ultimately  
11 flow to PSNH through such an arrangement. But, again,  
12 whether that will happen in the future, I do not know.  
13 And, I suppose that's as detailed as I can get.

14 CHAIRMAN IGNATIUS: All right. Anything  
15 further?

16 MS. CHAMBERLIN: Nothing.

17 CHAIRMAN IGNATIUS: Anything from Staff?

18 MS. AMIDON: No thank you.

19 CHAIRMAN IGNATIUS: All right. Then,  
20 thank you. Mr. Fossum, I appreciate that. Are we ready  
21 then for Mr. Eckberg to testify? If so, why don't you  
22 take the stand, Mr. Eckberg.

23 (Whereupon **Stephen R. Eckberg** was duly  
24 sworn by the Court Reporter.)

[WITNESS: Eckberg]

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

**STEPHEN R. ECKBERG, SWORN**

**DIRECT EXAMINATION**

BY MS. CHAMBERLIN:

Q. Please state your name and position for the record.

A. My name is Stephen Eckberg. I'm a Utility Analyst with the Office of Consumer Advocate.

Q. And, on November 20th, 2013, did you file testimony in this proceeding?

A. I did file testimony in this proceeding. If I find it -- yes, indeed. The date on the cover is "November 20th, 2013", yes.

Q. I'd like to -- well, are there any changes and corrections you wish to make to your testimony?

A. Yes. I have several changes and corrections I would like to make to my testimony. Let me turn to those. The first group of corrections occurs on Pages 7 and 8, in regards to the Newington fuel oil sales, which I discussed in my testimony. In which Mr. Chung offered some rebuttal testimony about also. So, the first change is on Page 7. Beginning on Line 6, there's a sentence which begins with the word "Ratepayers", in full, the sentence goes onto Line 7. And, it reads "Ratepayers realize only 41 percent of the gross value of the transactions." I would like to strike that full

[WITNESS: Eckberg]

1 sentence. And, these changes, I would comment, are in  
2 response to the fact that I misunderstood or misstated  
3 the fact about when ratepayers pay for the fuel, as  
4 Mr. Chung identified in his rebuttal. And, so, I'm  
5 making some adjustments to the testimony. So, that was  
6 the first adjustment.

7 The second adjustment would be further  
8 down on Page 7, in Line 17. The phrase "the costs to  
9 purchase it and" should be struck. So, there's six  
10 words there that would be struck.

11 Farther down on Page 7, in Line 22, the  
12 very last sentence, which reads "This makes the total  
13 cost to ratepayers \$10,450,238." I'd like to strike  
14 that full sentence.

15 And, then, over on Page 8, I would like  
16 to strike the full question and answer on Lines 1  
17 through 4. I won't read that full language into the  
18 record, but the full question and answer on Lines 1  
19 through 4 I would like to strike.

20 And, then, I believe the last adjustment  
21 will be further down on Page 8, beginning on Line 20,  
22 and going onto Line 21. So, beginning on Line 20 with  
23 the very first word, which reads "which resulted in  
24 providing only 41 percent of the gross sales value to

[WITNESS: Eckberg]

1 ratepayers, as well as a loss to ratepayers." I would  
2 like to strike that portion of the sentence. So, in  
3 effect, at the end of Line 19, we would put a period  
4 after "2012".

5 And, I believe that properly corrects my  
6 testimony to address that issue. Others may agree or  
7 disagree, but that's my adjustments for that issue.

8 One more change that I would like to  
9 make is on Page 14 of my testimony, in Line 17. I have  
10 there the amount "\$18,400,000". And, I would like to  
11 adjust that amount to "\$8,400,000". And, as  
12 background, the reason for that adjustment was  
13 addressed in a data response, which I made to a  
14 technical session data request. And, that adjustment  
15 is because I have removed the Company's inclusion of  
16 their investment in the Clean Air Project with the  
17 Scrubber. We had considerable discussion about that  
18 issue in testimony on Thursday, about whether the Clean  
19 Air Project investments were included or weren't  
20 included, how they're included. For the purposes of my  
21 testimony, I felt it was appropriate to remove that  
22 investment amount, because it is under consideration in  
23 docket DE 11-250. And, my concern was that, if the  
24 Commission were to approve this filing, they are

[WITNESS: Eckberg]

1 approving investments in the Clean Air Project. And,  
2 again, I acknowledge that there may be differences of  
3 opinion on that, but that's -- that's my perception of  
4 the facts. So, that's my last change to my testimony.

5 Q. And, with those changes, is your testimony true and  
6 accurate to the best of your knowledge?

7 A. Yes, it is.

8 MS. CHAMBERLIN: I'd like to mark for  
9 identification Mr. Eckberg's testimony. I don't recall  
10 which exhibit number we're up to at this point.

11 MS. HOWARD-PIKE: Eleven.

12 CHAIRMAN IGNATIUS: Eleven?

13 MS. CHAMBERLIN: Okay.

14 CHAIRMAN IGNATIUS: All right. So  
15 marked.

16 (The document, as described, was  
17 herewith marked as **Exhibit 11** for  
18 identification.)

19 MS. CHAMBERLIN: And, I have extra  
20 copies, if anyone else needs them, but I'm assuming  
21 everybody has a copy.

22 BY MS. CHAMBERLIN:

23 Q. And, while we are introducing exhibits, you mentioned  
24 the Scrubber costs.

[WITNESS: Eckberg]

1 A. Yes.

2 Q. There's a couple of data responses that address how the  
3 Scrubber costs are included and not included. So, I'd  
4 like to offer for identification the answer to OCA Set  
5 1 -- here, I'll let you read it.

6 (Atty. Chamberlin handing document to  
7 Witness Eckberg.)

8 **BY THE WITNESS:**

9 A. This is Data Request OCA 1-2, where the OCA asked the  
10 Company to calculate or to provide the details on  
11 Scrubber investments that were included in this  
12 reconciliation docket. This is sort of a detailed  
13 accounting of that. This is the Company's response to  
14 that data request. And, these amounts were discussed  
15 in testimony, I believe, on Thursday.

16 MS. CHAMBERLIN: And, I'd ask that it be  
17 marked for identification as "Exhibit 12".

18 CHAIRMAN IGNATIUS: So marked.

19 (The document, as described, was  
20 herewith marked as **Exhibit 12** for  
21 identification.)

22 **BY THE WITNESS:**

23 A. And, I would also say that amounts that are provided in  
24 this response or this Exhibit 12 were used by me in

[WITNESS: Eckberg]

1 making that adjustment or change to my recommended use  
2 of my "fractional used and useful" approach, and that  
3 reduction from the 18.4 million to the 8.4 million  
4 reduction in return.

5 BY MS. CHAMBERLIN:

6 Q. And, along those lines, there's another data response.  
7 Would you identify that please.

8 A. Yes. This is my response to Tech Session Question 3-1,  
9 which was a request for me to provide the details of my  
10 calculation regarding the 8 -- original 18.4 million  
11 reduction. And, in the course of writing this up to  
12 provide as a data response, I realized that the Company  
13 had included in the 2012 reconciliation its investment  
14 in the Clean Air Project.

15 MS. CHAMBERLIN: So, I'd ask that this  
16 be marked for identification as "Exhibit 13".

17 CHAIRMAN IGNATIUS: So marked.

18 (The document, as described, was  
19 herewith marked as **Exhibit 13** for  
20 identification.)

21 BY MS. CHAMBERLIN:

22 Q. And, one last exhibit. Can you describe this please?

23 A. Yes. The page that you've handed me is the Company's  
24 response to Data Request OCA 2-2. And, I believe that

[WITNESS: Eckberg]

1 we have included the cover letter to this set of  
2 responses, which is dated September 11th, 2013, in an  
3 effort to be sure that we have clearly marked this data  
4 response itself. Because the data response doesn't  
5 contain it's usual identification as to which set of  
6 data requests it belongs to. It correctly identifies  
7 the request as "Q-OCA-002", but it does not contain an  
8 identifier that is from OCA Set Number 2. And, it also  
9 contains, I believe, the date of response is listed as  
10 "8/26/2013", but that's actually the date of the  
11 question, when it was issued. And, the cover letter  
12 from Attorney Fossum identifies the actual date of the  
13 response to be "September 11th". So, I believe that's  
14 why we included the cover letter, just to add those  
15 extra details for the record.

16 MS. CHAMBERLIN: And, I'd ask that that  
17 be marked for identification as "Exhibit 14".

18 CHAIRMAN IGNATIUS: So marked.

19 (The document, as described, was  
20 herewith marked as **Exhibit 14** for  
21 identification.)

22 **BY THE WITNESS:**

23 A. And, yes. This is the data response in which the  
24 Company identified the amount \$900,000 of affiliate

[WITNESS: Eckberg]

1 expenses, which we've discussed at length.

2 BY MS. CHAMBERLIN:

3 Q. Now, Mr. Eckberg, could you briefly explain why you  
4 chose the years you did concerning your capacity factor  
5 analysis.

6 A. Well, as I explained in my testimony, I used two. I  
7 used a period from 1993 to 2001, based upon the  
8 availability of data, and that period of time I felt  
9 was a reasonable representation of the Company's use of  
10 its base-load assets or of its generation assets as  
11 used in a more base-load type approach as they were  
12 designed, before the development and implementation of  
13 deregulation and the competitive electric markets.

14 As for the second period of time which I  
15 used, the 2009 to 2012, I used that average of that  
16 four-year period to represent the more recent use of  
17 the plants and how changes in the marketplace and  
18 changes in the Company's use of the plants in response  
19 to that marketplace have impacted the Company's use of  
20 its generation assets.

21 MS. CHAMBERLIN: And, with that, I will  
22 allow Mr. Eckberg to respond to cross-examination.

23 CHAIRMAN IGNATIUS: Thank you. Let's  
24 begin with Mr. Fossum please.

[WITNESS: Eckberg]

1 MR. FOSSUM: Thank you.

2 **CROSS-EXAMINATION**

3 BY MR. FOSSUM:

4 Q. Mr. Eckberg, could you turn to Page 3 of your testimony  
5 please.

6 A. Page 3. Yes, I'm there.

7 Q. And, beginning at Line 3 of that page, it states "My  
8 concern relates to the expenses from another affiliate  
9 - not NUSCO." Is that correct?

10 A. That's what by testimony says, yes.

11 Q. So, just to confirm, your concern is not with the  
12 charges from NUSCO to PSNH, is that accurate?

13 A. That is correct.

14 Q. And, your concern is then just with the charges from  
15 NSTAR Electric & Gas, is that correct?

16 A. That's correct. That's the limit of the concern  
17 identified here, yes.

18 Q. And, that concern is, is that simply because there's no  
19 direct agreement between PSNH and NSTAR Electric & Gas  
20 Company?

21 A. Predominantly, yes. That is the nature of the concern  
22 that I expressed in my testimony.

23 Q. I'm sorry. If you could look at Line 6 of your  
24 testimony on that same Page 3. If I'm reading

[WITNESS: Eckberg]

1           correctly, it reads "This concerns the OCA because we  
2           find no evidence of an affiliate agreement filed with  
3           the Commission between PSNH and NSTAR-EGC." Is that  
4           correct?

5       A.    That is correct. That's what it states in my  
6           testimony, yes.

7       Q.    So, your concern exists because there's no direct  
8           affiliate agreement, is that correct?

9       A.    Yes. And, I would suggest also further that, in  
10          testimony on Thursday, I would say some new concerns  
11          have arisen for me. That the testimony -- the live  
12          testimony of Mr. Chung, he stated on Thursday that "the  
13          costs -- these costs represented "one-time costs".  
14          And, that certainly raises for me the specter that  
15          these costs may be somehow merger costs of the  
16          transaction between NSTAR and NU.

17      Q.    Does this Commission have jurisdiction over that  
18          merger?

19      A.    This Commission held hearings in Docket DE 11-014 to  
20          address that very question. And, I believe that the  
21          Commission's ruling, I don't remember the order number,  
22          but I believe the basic conclusion was that the  
23          Commission did not assert jurisdiction over that  
24          transaction. However, there were representations made

[WITNESS: Eckberg]

1 by the Company that the Company's ratepayers would not  
2 be impacted by that transaction. I can't provide you  
3 exact citations to that. But, I think, perhaps a  
4 review of the order or other documents in that  
5 proceeding would reveal those things.

6 Q. So, is that an additional change to your testimony from  
7 when it was filed?

8 A. No, that's not an additional change to my testimony.  
9 As I said, that's an additional concern which arose  
10 because of testimony that Mr. Chung provided on  
11 Thursday. If asked these same questions at the time  
12 that the testimony was produced, I was not considering  
13 the fact that these were merger costs at that time.  
14 But, based upon Mr. Chung's testimony, that issue came  
15 to my mind, yes.

16 Q. So, it's simply an issue that "came to your mind".  
17 It's not anything that you've felt a need to explore  
18 with the Company today?

19 A. I'm sorry, it's not anything I need to --

20 Q. That you -- is it anything that you've attempted to  
21 explore with the Company?

22 A. No. I haven't asked any data requests or anything  
23 about whether these were merger costs specifically, no.

24 Q. And, going down the page, staying on Page 3, your

[WITNESS: Eckberg]

1 testimony quotes "RSA 366:4", is that correct?

2 A. Yes. I do reference that statute, yes.

3 Q. And, if I'm reading correctly, at Page -- I'm sorry,  
4 Line 15 and following, Page 3, it reads, in part, "That  
5 statute states "Any contract or arrangement not filed  
6 with the Commission pursuant to RSA 366:3 shall be  
7 unenforceable in any court in this state and payments  
8 thereunder may be disallowed by the Commission unless  
9 the later filing thereof is approved in writing by the  
10 Commission."" Is that a correct reading of your  
11 testimony there?

12 A. Yes, it is a correct reading. And, I believe that's a  
13 correct representation of the statutory language as  
14 well.

15 Q. Could you explain what, to the best of your  
16 understanding, what the requirements of 366:3 are?

17 A. Well, I don't -- I didn't quote 366:3 here in my  
18 testimony. And, I don't have a copy of 366:3 in front  
19 of me. But my recollection is that it addresses the  
20 need or the requirement for affiliate agreements to be  
21 in place when the regulated company, PSNH, is to incur  
22 costs from one of its affiliates.

23 MS. CHAMBERLIN: Your Honor, if I may  
24 approach the witness, I have 366:3 here?

[WITNESS: Eckberg]

1 CHAIRMAN IGNATIUS: He hasn't said he  
2 needs to see it. But I don't know if there's further  
3 questioning about the statute, if so, that's fine to give  
4 it to him.

5 MR. FOSSUM: I just had one other  
6 question.

7 CHAIRMAN IGNATIUS: Why don't you go  
8 ahead and give him a copy.

9 MR. FOSSUM: Well, it's --

10 CHAIRMAN IGNATIUS: Go ahead and give  
11 him a copy.

12 MS. CHAMBERLIN: Oh, certainly.

13 (Atty. Chamberlin handing the RSA book  
14 to Witness Eckberg.)

15 WITNESS ECKBERG: Thank you. I have  
16 that now in front of me.

17 MR. FOSSUM: Thank you. I'm not certain  
18 my question requires reference to the terms of the statute  
19 itself, but, to the extent that it may be helpful to  
20 review it, I suppose it would.

21 BY MR. FOSSUM:

22 Q. So, then, to follow along what you just said, is it  
23 your understanding then that RSA 366:3 requires there  
24 to be a contract between a public utility and its

[WITNESS: Eckberg]

1 affiliate in all instances?

2 A. Within the limits as specified here. It does say that,  
3 for instance, "if the consideration exceeds \$500". So,  
4 there are circumstances where an affiliate agreement  
5 would not be required. But, I think, in the situation  
6 at hand, where the amount under review is in excess of  
7 \$500, then, yes, indeed. My interpretation is that an  
8 affiliate agreement would need to be in place between  
9 the public utility and its affiliate.

10 Q. And, so, then -- and just one final question on this  
11 issue. Then, so, it's not simply that an agreement, by  
12 your understanding, it's not simply that an agreement  
13 must be filed, it's that there must be an agreement in  
14 the first instance. Is that a correct understanding of  
15 your position?

16 A. Well, I guess I'm not sure of the distinction you're  
17 trying to draw there between those two issues. Perhaps  
18 my lack of legal training is --

19 Q. No. That's fine.

20 A. -- is revealing itself.

21 Q. I can reword the question. So, then, is it your  
22 position that the Company might both have an agreement  
23 in place and have an agreement filed pursuant to that  
24 statute?

[WITNESS: Eckberg]

1 A. That may be a legal question. I'd be happy to read  
2 this and give you my own non-legal interpretation of  
3 the language. It is titled "Filing of contracts". So,  
4 if you give me one moment. Yes, it says "shall be  
5 filed by the public utility with the Commission". So,  
6 I guess my interpretation is that the agreement would  
7 need to be filed with the Commission, based upon that  
8 language.

9 Q. Thank you. And, I'll move on from that issue now.

10 A. Okay.

11 Q. In your testimony, well, you made several corrections a  
12 few moments ago to the section of your testimony  
13 concerning fuel oil sales at Newington Station?

14 A. Yes, I did.

15 Q. And, in your testimony, you recommended that the  
16 Commission direct the Company to provide additional  
17 support for those sales. Do you believe that the  
18 Company has provided sufficient additional support now?

19 A. Well, I did not strike that recommendation from my  
20 testimony. I have attempted to correct the  
21 misunderstanding, which I may have created in my  
22 testimony or which I exhibited, by including an  
23 erroneous assumption of when the ratepayers pay for the  
24 fuel. But I think that I did not find it necessary to

[WITNESS: Eckberg]

1 strike my recommendation. Here again, I think this is  
2 an area where, you know, the Commission may agree or it  
3 may disagree with my recommendation. That's their  
4 prerogative.

5 Q. Similarly, with regard to the AYFR update, you had  
6 recommended that the Company provide additional details  
7 on that. Is that a correct statement of your  
8 recommendation?

9 A. That is a correct -- a correct reading of my  
10 recommendation. And, if you're going to ask me another  
11 question about that, I would say that the Company has,  
12 in fact, provided additional information in response to  
13 data requests and tech session. And, also, the  
14 testimony of Mr. Mullen of Staff was very helpful in  
15 providing additional details about the difference  
16 between whole life depreciation and remaining life  
17 depreciation, a subject which I'm sure we're all  
18 excited to learn about. I know I was. And, this, I  
19 think Mr. Mullen's testimony was very useful, both for  
20 me and for everyone else, because it helped explain  
21 when it's appropriate to use these different methods of  
22 depreciation. And, so, in this regard, I would say  
23 that the Company has already provided additional  
24 information. And, I would say that no further action

1 is needed on this item.

2 Q. Thank you. Moving on then to your recommendation and  
3 analysis on the "used and useful" issue, if you could  
4 turn to Page 9 of your testimony please.

5 A. I'm there.

6 Q. And, beginning at Line 6 on that page, it reads "The  
7 entirety of these generating" -- "generation assets,  
8 then, do not meet the requirements of RSA 378:27 and  
9 RSA 378:28 which limits the return" -- I'm sorry,  
10 "which limits the recovery of a return on investment to  
11 assets that are "used and useful" in the service to  
12 customers." Subject to my small stumbling, is that an  
13 accurate reading of your testimony?

14 A. Yes, it is.

15 Q. And, if you could turn to Page 11 of your testimony.

16 A. I'm there.

17 Q. And, beginning at Line 9 on that page, it reads "Based  
18 on this comparison of historical versus recent capacity  
19 factor, I conclude that PSNH's generating" --  
20 "generation assets are no longer fully "used and  
21 useful" as required by law."

22 A. You've read that correctly, yes.

23 Q. Thank you. Is it your position then that it's illegal  
24 for PSNH to earn the return that's indicated in its

[WITNESS: Eckberg]

1 filing?

2 A. I don't think it's my responsibility to determine  
3 what's legal and illegal.

4 Q. Well, if I may, your testimony does say that this would  
5 be contrary to law, doesn't it?

6 A. Yes, it does.

7 Q. So, then, is it your position that it's illegal for  
8 PSNH to earn the return that is contained in its  
9 filing?

10 A. Well, that's not the language I used.

11 Q. And, if you could look at Page 11, Line 14, please.

12 A. Line 14. Yes.

13 Q. On that line, does it read "Such an action would  
14 conflict with NH law"?

15 A. That's what it says, yes.

16 Q. And, is the "such an action" a reference to the prior  
17 sentence, where it states that "If the Commission were  
18 to approve the 2012 energy service reconciliation as  
19 proposed, customers would pay PSNH shareholders a  
20 return on assets which are not fully used and useful"?

21 A. Yes. That "such an action" refers to that approval,  
22 yes.

23 Q. So, again, I would ask, is it your position --

24 MS. CHAMBERLIN: Your Honor, I'll object

[WITNESS: Eckberg]

1 to this final question. He's asking for a final legal  
2 determination, which we are going to argue about in  
3 briefs, and which ultimately is up to the Commission to  
4 decide.

5 CHAIRMAN IGNATIUS: Well, I think, if  
6 your question is "what did you mean by the phrase "such an  
7 action would conflict with New Hampshire law"? I think  
8 that's fair. If you're asking him to determine the law, I  
9 would agree with Ms. Chamberlin.

10 MR. FOSSUM: No, I'm --

11 CHAIRMAN IGNATIUS: So, help me  
12 understand what your question is, Mr. Fossum.

13 MR. FOSSUM: I'm looking to understand  
14 what Mr. Eckberg meant by his testimony that it "would  
15 conflicts with New Hampshire law".

16 CHAIRMAN IGNATIUS: You can ask him that  
17 question.

18 BY MR. FOSSUM:

19 Q. In that case, Mr. Eckberg, what did you mean by your  
20 statement that it "would conflict with New Hampshire  
21 law"?

22 A. I think the statement is -- stands for itself. I think  
23 it's fairly obvious that I think that such an action  
24 would conflict with New Hampshire law.

[WITNESS: Eckberg]

1 Q. Is that conclusion based on your understanding of RSA  
2 378:27 and RSA 378:28 that you referenced back on Page  
3 9?

4 A. Could you give me those references again that you just  
5 made?

6 Q. Yes. Back on Page 9, at Line 7, your testimony  
7 references "378:27 and 378:28", is that correct?

8 A. Yes, it does. Yes.

9 Q. So, is your understanding based upon the requirements  
10 of those two statutes?

11 A. Well, I think that I have added into my understanding  
12 of the statute the issue of "fully used and useful", as  
13 I discuss beginning on Line 10 on Page 11. I think  
14 that's a line you asked me about a few minutes ago.  
15 "Fully used and useful", the word "fully" is not  
16 included in the statute, which is why I did not include  
17 it within the quotation marks. That's my own word.

18 Q. Okay. Thank you. That actually answered my next  
19 question as well. I appreciate that.

20 A. Glad to be of help.

21 Q. I guess one other question I would have is, are there  
22 any other statutes that you're aware of that would  
23 weigh in on this, on your proposal?

24 A. If I did not refer to any other statutes, then, I would

[WITNESS: Eckberg]

1 not have any other references to make at this point in  
2 time, no. That does not mean there are no other  
3 statutes, but --

4 Q. But, to the best of your knowledge, it's just those  
5 two?

6 A. That's what I referred to, that's what I reviewed in  
7 developing my concept and my approach here, yes.

8 Q. Thank you. To the best of your knowledge, have you or  
9 the OCA, as an office, have you advocated for the  
10 reading of those statutes -- this same reading of those  
11 statutes in any other context?

12 A. I've only been with the OCA for about seven years. In  
13 my time at the OCA, I believe this is the first time  
14 that such a reading of those statutes has been  
15 advocated. I'm not fully familiar with every previous  
16 case that we've participated in. So, I guess I'm  
17 leaving the door open that it may possibly have  
18 occurred in the past, but I don't know of that  
19 specifically.

20 Q. But, as you sit here today, to the best of your  
21 knowledge, this has only been raised in this docket  
22 relative to PSNH's fossil generating stations, is that  
23 correct?

24 A. To the best of my knowledge, yes.

[WITNESS: Eckberg]

1 Q. Speaking of PSNH's fossil generating stations, PSNH --  
2 you do understand PSNH owns hydroelectric facilities,  
3 are you aware of that?

4 A. Yes. Those facilities are discussed and there are  
5 details provided in this reconciliation docket as well,  
6 yes.

7 Q. But those facilities are not included in your proposal,  
8 are they?

9 A. That's correct.

10 Q. And, what is the basis for excluding those facilities  
11 from your proposal?

12 A. It's my understanding that those facilities generally  
13 have very high capacity factors, and continue to be  
14 very used and useful in providing service to customers.

15 Q. If I can ask you a hypothetical then, based on those  
16 hydro facilities. If there were to be a drought in New  
17 Hampshire, and those facilities could not run for lack  
18 of water, would that lower their capacity factor of  
19 those facilities?

20 A. It may, I suppose, depending upon the length and  
21 severity of the drought. I would suggest that one of  
22 the reasons why I have used an average capacity factor  
23 in recent years, for instance, as I show on Page 13 of  
24 my testimony, in Table 2, I used the average capacity

[WITNESS: Eckberg]

1 factor from 2009 to 2012 as a metric to determine  
2 recent usefulness of the generation assets in question.  
3 And, I did that specifically as an acknowledgement that  
4 in any one particular year the capacity factor could go  
5 up or down, perhaps significantly, depending upon  
6 specific conditions, such as the drought that you  
7 hypothesize, or -- though, that wouldn't necessarily  
8 impact these same fossil fuel generating plants. But,  
9 you know, --

10 Q. That's very helpful. I guess my specific question is,  
11 would the lack of water that made it so the plant could  
12 not run, would that lower its capacity factor?

13 A. That's certainly a possible outcome, if reduced water  
14 is available to operate the plant, yes.

15 Q. And, in your estimation, if the capacity factor of such  
16 a plant goes down for lack of water, does that mean the  
17 station is no longer used and useful, at least to some  
18 degree?

19 A. Well, again, I don't think that my proposal, as I put  
20 forth here in my testimony, puts an emphasis on a  
21 single year's reduction in used and usefulness. But I  
22 think that such a reduction would contribute to a  
23 reduced used and usefulness.

24 Q. Well, then, getting to the point now that you've

[WITNESS: Eckberg]

1 raised, if we had a drought that, say, spanned two or  
2 three years, and made it so the plant could not run,  
3 would that lower the capacity factor of that plant over  
4 a period of years?

5 A. Well, again, I have not proposed inclusion of hydro  
6 generating facilities in my proposal here.

7 Q. I understand that, and I'm trying to understand why?

8 A. As I said, I believe that those facilities maintain a  
9 high level of used and usefulness, much more along the  
10 lines with their original design and intended use.

11 Q. I guess I'll -- Mr. Eckberg, would you agree that  
12 PSNH's generating stations earn revenue from sources  
13 other than purely the generation of electric power?

14 A. Yes, they do.

15 Q. Sources such as capacity payments from the ISO?

16 A. That's one of them, yes.

17 Q. Would that revenue source be affected by your proposal?

18 A. I'm not sure. I don't think I've addressed that issue  
19 within my proposal. About how the proposal would  
20 impact the assets' participation in the Forward  
21 Capacity Market, I believe that's the basis -- the  
22 basic question you're asking.

23 MR. FOSSUM: If I may approach?

24 CHAIRMAN IGNATIUS: Yes.

[WITNESS: Eckberg]

1 (Atty. Fossum handing a document to  
2 Witness Eckberg.)

3 BY MR. FOSSUM:

4 Q. I'll show you a document. If you could explain, Mr.  
5 Eckberg, what that document is please.

6 A. This document is an OCA response to PSNH Data Request  
7 Set Number 1, Question 25. The response is by me. The  
8 date of the response is December 9th, 2012.

9 Q. And, in that question, were you asked if your  
10 calculation would apply to the revenues received for  
11 capacity and ancillary services for PSNH's generating  
12 assets?

13 A. Yes. The question asks, "If the "used and useful  
14 fraction" is used to calculation the return on  
15 generation rate base, would that same calculation apply  
16 to the revenues received for capacity and ancillary  
17 service payments from ISO-New England? If no, why  
18 not?" Yes. That's the question.

19 Q. And, in the middle of your response, did you state that  
20 "The OCA's initial thoughts on the matter are that the  
21 "used and useful fraction" would not apply to revenues  
22 received from the ISO-New England for capacity"?

23 A. Yes, that's what it says. I think that comports with  
24 my response a few moments ago, that I did not include

[WITNESS: Eckberg]

1 this, I did not address the Forward Capacity Market  
2 payments in my proposal. And, I haven't fully  
3 developed any position or thought on that matter at  
4 this point.

5 MR. FOSSUM: Thank you. I would offer  
6 the response to PSNH's Question 25 as the next exhibit for  
7 identification.

8 CHAIRMAN IGNATIUS: Is that 15? So  
9 marked.

10 (The document, as described, was  
11 herewith marked as **Exhibit 15** for  
12 identification.)

13 BY MR. FOSSUM:

14 Q. Mr. Eckberg, why would -- well, based upon your -- what  
15 you describe your "initial thoughts", why would  
16 capacity or ancillary services not be affected by your  
17 proposal?

18 A. Well, I'm not sure how far down the road I need to go  
19 on this, because it wasn't part of my testimony. But I  
20 think, to address your question in a basic way, because  
21 participation in the Forward Capacity Market is --  
22 relates to the plant's availability, I believe,  
23 availability to generate energy to serve customer load.  
24 And, "availability" is a somewhat different metric than

[WITNESS: Eckberg]

1 the "capacity factor" itself. I mean, both of these  
2 things include the word "capacity", but I think they  
3 are different components of measures of the plant.

4 Q. And, is it your testimony that "availability", as you  
5 describe it, is not the appropriate metric?

6 A. Excuse me?

7 Q. If I understand your description, you had said that you  
8 believe the ancillary services are based upon an  
9 analysis of the availability of the plant, as opposed  
10 to its capacity factor. Is that a --

11 A. I think, what I was trying to communicate, and I think  
12 I did, was the participation in the Forward Capacity  
13 Market. I wasn't addressing the ancillary services  
14 payments necessarily. But the Forward Capacity Market  
15 is related to the availability of the plant to provide  
16 energy and serve load, when ISO-New England needs that  
17 load, needs that generating capacity to serve New  
18 England load.

19 Q. And, is it your position then that the availability  
20 that the ISO reviews is the wrong metric to use in your  
21 proposal?

22 A. No. My proposal did not address ISO-New England's  
23 Forward Capacity Market.

24 Q. So, your proposal then is related solely to using a

[WITNESS: Eckberg]

1 review of the capacity factor to reduce the return to  
2 PSNH's shareholders?

3 A. It addresses the used and usefulness of the generating  
4 assets in providing service to New Hampshire  
5 ratepayers.

6 Q. So, I guess I would ask then one final question. So,  
7 then, if I understand your proposal, is it correct to  
8 say that your proposal regarding "used and useful"  
9 applies to the single line item of return to -- of  
10 return out of all of the costs and revenues of  
11 operating PSNH's facilities?

12 A. In the interest of presenting an idea, a proposal, a  
13 concept that, in a relatively straightforward way, the  
14 answer to your question would be "yes".

15 Q. Thank you.

16 A. But, clearly, the "used and useful fraction" has a  
17 potential to impact other items as well, such as fuel  
18 costs or other -- other elements, perhaps, but I have  
19 not examined those in detail.

20 MR. FOSSUM: Thank you. Nothing  
21 further. Oh?

22 CHAIRMAN IGNATIUS: Oh, just before we  
23 move on, I want to be sure, on Exhibit 15, I think the  
24 dates are wrong. The "date received" and the "date of

[WITNESS: Eckberg]

1 response", should those both be "2013"?

2 WITNESS ECKBERG: Yes. I believe that  
3 would be correct.

4 CHAIRMAN IGNATIUS: Thank you.

5 Mr. Fossum, any further questions?

6 MR. FOSSUM: No thank you.

7 CHAIRMAN IGNATIUS: Mr. Courchesne?

8 MR. COURCHESNE: Thank you, madam Chair.

9 I do have just a few questions for Mr. Eckberg. Good  
10 morning, Mr. Eckberg.

11 WITNESS ECKBERG: Good morning.

12 (Court reporter interruption.)

13 MR. COURCHESNE: Oh, I'm sorry. I  
14 apologize. I'm a little under the weather as well. So,  
15 how's that?

16 CHAIRMAN IGNATIUS: This is a sick room.

17 (Laughter.)

18 CHAIRMAN IGNATIUS: I think I'm the only  
19 one who's actually feeling good. But, by noon, it may be  
20 a different story, I'm afraid.

21 BY MR. COURCHESNE:

22 Q. Mr. Eckberg, is your proposal on the "used and useful"  
23 question a reflection of the diminishing economic value  
24 to ratepayers that the fossil units identified in the

[WITNESS: Eckberg]

1 proposal provide?

2 A. Yes. I believe that's another way of saying of it,  
3 yes. That the proposal is to address the diminishing  
4 value of those assets, yes.

5 Q. Are there other metrics, besides capacity factor, that  
6 suggest a diminishing economic value from those assets  
7 to customers?

8 A. I suppose there are other metrics that could be used.  
9 I did not address anything -- any other specific  
10 metrics or investigate them. For instance, I believe  
11 we had some testimony last Thursday, when Mr. White was  
12 here on the stand. I believe there were some questions  
13 from the Bench about the percentage of energy that was  
14 supplied during peak hours versus non-peak hours by the  
15 Company's generating assets. That's another metric,  
16 which could be examined over time to see if there's a  
17 difference in that amount of energy that's being  
18 provided by those assets. But that's not a metric that  
19 I examined in this course of this docket. So,  
20 similarly, I guess I would say there are other metrics  
21 tricks that could be used, yes.

22 Q. Would you expect those -- that other metrics might  
23 reflect that same diminishing economic value trend that  
24 you've identified in the capacity factors?

[WITNESS: Eckberg]

1 A. I guess I would expect any metric that I selected to  
2 correlate reasonably well with the one that I did  
3 select, yes.

4 Q. Okay. Thank you. The question I would have about the  
5 capacity factor metric, wouldn't that create an  
6 incentive for PSNH to operate its units to the maximum  
7 extent possible, even if out of merit in the market?

8 A. I suppose that could be what would be referred to as a  
9 "perverse effect" of implementing my proposal. That  
10 there might be then an incentive to operate as much as  
11 possible, in order to reduce the fractional  
12 disallowance. And, therefore, that could incent an  
13 operator to run the plant more often out of merit. So,  
14 I suppose there would be ways to adjust the proposal to  
15 compensate for that.

16 Q. Would the Commission have the ability to address that  
17 concern in some ways? And, if so, what would those be?

18 A. Well, I suppose one could look only at economic  
19 generation, and remove hours of operation which were  
20 uneconomic from the calculation of capacity factor. I  
21 suppose that's one possible way that that could be  
22 done. Yes. Uh-huh.

23 MR. COURCHESNE: Madam Chair, I have no  
24 more further questions for Mr. Eckberg. Thank you.

[WITNESS: Eckberg]

1 CHAIRMAN IGNATIUS: Thank you. Ms.  
2 Amidon?

3 MS. AMIDON: Thank you, madam Chair.  
4 With your permission, I would like to ask Steve Mullen to  
5 conduct the cross?

6 CHAIRMAN IGNATIUS: That's fine.

7 MS. AMIDON: Thank you.

8 MR. MULLEN: Good morning, Mr. Eckberg.

9 WITNESS ECKBERG: Good morning, Mr.  
10 Mullen.

11 BY MR. MULLEN:

12 Q. If we can turn back to your testimony, and this is  
13 basically the last part of your testimony dealing with  
14 the "used and useful".

15 A. Yes.

16 Q. You talked about how you determined the years for the  
17 base period. And, I believe you talked about why you  
18 used the four years for your average capacity factor,  
19 correct?

20 A. Yes.

21 Q. Well, what about the intervening years, the years 2002  
22 to 2008, why weren't those used at all?

23 A. Well, because the intention of my proposal was to  
24 compare the previous or historic use of the plants

[WITNESS: Eckberg]

1 during the time period that reflected -- that best  
2 reflected, that I felt best reflected, usage of these  
3 generation assets in a way that they were designed to  
4 be used, as base-load assets for Merrimack, or, as we  
5 heard discussion, other plants, such as Newington were  
6 not necessarily designed as pure base-load plants, but  
7 yet they had their own originally designed and intended  
8 usage. And, so, the purpose of my using the 1993 to  
9 2001 period was, I felt that that time period reflected  
10 reasonably accurately their usage in a way that  
11 reflected their originally intended usage.

12 Q. I understand that period.

13 A. Okay.

14 Q. But, for the years 2002 to 2008, are they irrelevant?

15 A. I chose not to use them, because those were years  
16 during which the development of deregulation, and the  
17 Company's changing use of their assets in the  
18 marketplace would reflect up and down periods of usage.  
19 And, so, my proposal was to use a more recent period of  
20 a few years of average capacity factor, and compare  
21 that to historical usage. I suppose it might be  
22 possible to use other time periods, but I did not use  
23 other time periods.

24 Q. On the use of the four-year average, and, well, would

[WITNESS: Eckberg]

1           you agree we're looking at a one-year reconciliation in  
2           this proceeding, is that correct?

3   A.   That is correct.  This is the reconciliation of 2012  
4       Energy Service expenses, yes.

5   Q.   Okay.  So, if you assume that, in the year being  
6       reconciled, the capacity factor is at or above the base  
7       level, but for the other three years in your average it  
8       was below, what would happen for purposes of this  
9       reconciliation using your proposal?

10  A.   I'm not sure I understand the question.  Could you just  
11       walk me through that again?

12  Q.   Sure.  Say -- let's just take a look at, say, your  
13       table on Page 13?

14  A.   Page 13.  I'm there.  Yes.

15  Q.   And, if we just look at, say, Merrimack 1.

16  A.   Yes.

17  Q.   Which, in the first -- in the first row, it says  
18       "Average Capacity Factor 1993 to 2001"?

19  A.   Yes, it does.

20  Q.   It has a number of "80.1 percent"?

21  A.   It does, yes.

22  Q.   Okay.  Let's just start there.  Say, for 2012, that  
23       Merrimack 1 operated at 81 percent capacity factor.

24       Did I say "2001"?  If so, I meant "2012".

[WITNESS: Eckberg]

1 A. I took your meaning as "2012".

2 Q. Okay. Thank you. Now, you're using a three-year  
3 average -- excuse me, four-year average, 2009 to 2012,  
4 to determine your "fractional used and useful"  
5 allowance, correct?

6 A. That's my proposal, yes.

7 Q. Okay. So, now, if, in each of those other three years,  
8 the capacity factor was, say, 50 percent, would you  
9 agree with me that the average of those four years  
10 would be below the "80.1 percent"?

11 A. Yes. If I averaged three 50s and an 81, I believe the  
12 value would be less than 80.1.

13 Q. Okay. So, for purposes of the 2012 reconciliation,  
14 under your proposal, PSNH would not be able to recover  
15 its full return on Merrimack 1 for that year, even  
16 though, in that year, it operated at a level above your  
17 base level?

18 A. That's correct. As my proposal is presented here,  
19 that's correct.

20 Q. Does that seem fair?

21 A. Well, I think that everyone has a different idea of  
22 what's "fair". I think the Company would suggest that  
23 the proposal I've made is not fair as it is. So, I'm  
24 not sure anyone will ever agree on what's "fair".

[WITNESS: Eckberg]

1 Q. Well, I guess I look at, when you try to assess how  
2 they operated the plants during the year, when we're  
3 looking at the reconciliation and all the costs and the  
4 revenues associated with operating the plants during  
5 that year, now you're taking into account factors in  
6 other years and determining the outcome of the  
7 reconciliation based on that.

8 A. I understand your point. And, as I believe I testified  
9 a little earlier, my intent of using a multi-year  
10 average for recent years was intended to ameliorate  
11 impacts of downside under production, as well as upside  
12 over production or over usefulness above that average  
13 historically. And, I'm certainly open to adjustments  
14 in my proposal. I'm not claiming that this is the one  
15 and only way that this adjustment should be made. This  
16 is a proposal that I'm making. And, I would certainly  
17 welcome other refinements to the idea, if other parties  
18 have improvements that they wish to offer.

19 Q. And, looking at Table 2, on Page 13 of your testimony.

20 A. Yes. I'm there.

21 Q. Is it correct to say that you have calculated "used and  
22 useful fractions" individually for the two units at  
23 Merrimack Station, for Newington Station, and for the  
24 three units at Schiller Station?

[WITNESS: Eckberg]

1 A. That's correct. Yes.

2 Q. But I believe that, in one of the exhibits that's  
3 already been marked, let me find the number,  
4 Exhibit 13, which was your response to the Tech Session  
5 3-1?

6 A. Yes. I have that exhibit.

7 Q. Am I correct to say that, in that response, you explain  
8 that the two units at Merrimack Station and the three  
9 units at Schiller Station were combined somehow?

10 A. Yes, that's correct. Because the information that I  
11 had available to me required that I combine my  
12 approach. In looking at, for instance, the Merrimack 1  
13 and Merrimack 2, there was not separate rate base or  
14 net plant investment information available for the two  
15 units separately. And, indeed, though they do operate  
16 independently, the information that I had available did  
17 not provide me with net plant investment that was  
18 separated for those two units. So, I was required to  
19 combine those two averages for Merrimack 1 and  
20 Merrimack 2, in order to apply that and work through my  
21 calculation.

22 Q. So, if I look on Page 2 of Exhibit 13, Item E, am I  
23 correct to say that, for Merrimack Station  
24 collectively, your percentage is "73 percent"?

[WITNESS: Eckberg]

1 A. Yes, that's correct. I show the averaging there on  
2 that.

3 Q. And, for Schiller Station, your fraction is  
4 "77 percent" collectively?

5 A. That's correct. That's what it shows there in my  
6 approach.

7 Q. Okay. And, that's not explained anywhere in your  
8 testimony, is it?

9 A. I don't believe it was explained in my testimony, no.

10 Q. Related to Schiller 5?

11 A. Yes.

12 Q. Looking at Table 2, on Page 13 of your testimony again,  
13 using -- if you look at the years 1993 to 2001, and you  
14 compare to the period you used for the average capacity  
15 factor of 2009 to 2012, are you aware of any major  
16 differences in the operation of that unit?

17 A. Yes, I am. In approximately 2006, I believe it was,  
18 the Company rebuilt Schiller 5 from a coal-fired plant,  
19 and it's now a biomass plant. It operates with a  
20 different fuel, so, it has different operating  
21 characteristics, based upon its market value.

22 Q. Given that major difference, why do you feel it's  
23 appropriate to compare a biomass plant to the coal  
24 plant that existed during the base period?

[WITNESS: Eckberg]

- 1 A. Well, I think, again, because the information that was  
2 available to me, and the fact, for instance, that the  
3 Company itself, in its depreciation technical update,  
4 treats the Schiller plant as a single entity, and it  
5 has a single depreciable life or a single Average Year  
6 of Final Retirement, the Company is, in effect,  
7 treating these three units as a single operating asset.  
8 In that sense, I realize, as I said, that Schiller 5 is  
9 certainly different than Schiller 4 and 6. And, if  
10 there were additional information available that would  
11 allow for adjustments or fine-tuning of my proposal to  
12 take that into account, I would certainly be willing to  
13 discuss that information and consider those proposals.
- 14 Q. Related to the Average Year of Final Retirement, you  
15 just stated that they're looking at all three units  
16 collectively, correct?
- 17 A. That's my recollection, yes.
- 18 Q. But, in terms of operations, all three units can  
19 operate independently, correct?
- 20 A. That's correct also.
- 21 Q. Would you agree that, if the Commission was to adopt  
22 your proposed "fractional used and useful" concept, the  
23 fractional disallowances, that that would represent a  
24 major policy change for the Commission?

[WITNESS: Eckberg]

1 A. I believe it would represent a unique application of a  
2 principle that's already used by the Commission. I  
3 know -- I'm aware of instances where the Commission has  
4 reduced the Company's return on investments for excess  
5 capacity, which I believe is very similar to the  
6 concept that we have at hand here. In water dockets,  
7 for instance, where a water utility has invested in  
8 distribution plant, which is intended to serve a  
9 development of 200 homes, but, yet, there are only ten  
10 homes which are built and operating, then, the  
11 Commission has approved a reduction in the rate base  
12 and the return based upon that excess capacity, so that  
13 the ratepayers do not pay for the full cost of the  
14 plant that's built and installed.

15 Q. And, am I correct, based on what you just described,  
16 that that would be a case where something was overbuilt  
17 and it never reached that operating capacity?

18 A. I'm not sure I would use the word "never", but it has  
19 not yet reached that full operating capacity. I think  
20 that, in that instance, there's an intention that the  
21 water utility intends or hopes that the plant will all  
22 go into rate base eventually, if additional homes are  
23 built and that plant is fully used and useful to its  
24 capacity.

[WITNESS: Eckberg]

1 Q. Okay. So, by talking about a water utility, your  
2 "fully used and useful" concept could apply to other  
3 regulated utility industries, correct?

4 A. I suppose that's possible, yes.

5 Q. Let's stick with water for a minute. If the Company  
6 has a main that's sized, say, it's a 10-inch main, and  
7 it serves residential customers and a large industrial  
8 customer.

9 A. Uh-huh.

10 Q. Now, the large industrial customer goes out of  
11 business, and the main is no longer used to its full  
12 capacity. It could be in the future, if another  
13 customer comes in. What would you recommend in that  
14 case?

15 A. I'm not sure what I would recommend, without having the  
16 opportunity to more fully explore the details of the  
17 circumstances. But, I think that, in circumstances  
18 like this, in apportioning the total cost of that  
19 10-inch main, for example, it is normal to do a cost of  
20 service study and try to ascertain what portion of the  
21 plant is used to serve residential customers and what  
22 portion of that main is used to serve industrial  
23 customers, and what portion of that main is used to  
24 provide fire protection services, in order to allocate

[WITNESS: Eckberg]

1 the costs appropriately to different rate classes.

2 Q. Well, would you agree, typically, when looking at what  
3 size main to install, a water utility would look at  
4 what it expected its load to be on that main, and they  
5 would design it appropriately?

6 A. Yes. Hopefully, they would.

7 Q. Okay. Now, let's get back to electric for a minute.  
8 And, we've talked about PSNH's fossil plants, and you  
9 discussed with Mr. Fossum the hydro plants. Let's talk  
10 about some distribution facilities. If PSNH were to  
11 have a substation that serves a particular load, a  
12 particular community, would you agree with me that  
13 substations are designed to serve peak load in that  
14 area?

15 A. I would agree, generally, that that's the way they're  
16 designed. Though, I'm not a distribution design  
17 engineer. But that sounds reasonable.

18 Q. Nor am I. But -- okay. So, part of the load that  
19 that, this is again my hypothetical, part of the load  
20 served from that substation, say, it's a mix of  
21 residential customers and an industrial park. Now,  
22 assume that industrial park installed its own  
23 generation and goes off the grid. How would your  
24 proposal apply, related to the substation and the

[WITNESS: Eckberg]

1 transformers and all the other equipment there?

2 A. Well, I haven't given any thought to how this proposal  
3 would apply to distribution assets, or whether it would  
4 be applicable to distribution assets. I think, in real  
5 terms, if -- in the scenario you proposed or  
6 hypothesized about, I'm not sure what the Company's  
7 existing tariffs and fees would -- how those would  
8 impact an industrial park that put in its own  
9 generation and no longer used the Company's  
10 distribution assets to the full use to which they were  
11 designed. I think that is another matter, another  
12 question that is of concern to commissions and  
13 utilities around the country currently, as there's a  
14 push towards distributed generation. I think your  
15 question is a very reasonable one. But I think it's  
16 perhaps beyond the scope of my proposal at the moment.

17 Q. Well, that's why I started out by saying "if the  
18 Commission were to approve it, could have some  
19 wide-ranging impacts to not just the electric industry,  
20 but also others." I think you'd agree with that?

21 A. I suppose that's possible.

22 Q. And, you had some discussion with Mr. Fossum earlier  
23 about the revenues, capacity revenues, ancillary  
24 revenues?

[WITNESS: Eckberg]

1 A. Yes.

2 Q. And, if I understand your proposal correctly, when the  
3 plants have a capacity factor at or above the base  
4 level, customers receive the benefit of all revenues,  
5 and the Company is allowed to recover return of and a  
6 return on its plant investment, is that correct?

7 A. Yes.

8 Q. Now, when they have a capacity factor, or should I say  
9 an average capacity factor below the base level,  
10 customers still receive the benefit of all the  
11 revenues, correct?

12 A. Yes.

13 Q. And, the Company is still allowed to recover a return  
14 of, but only a fractional return on its plant  
15 investment, is that correct?

16 A. That's the proposal as I presented it, yes.

17 Q. Do you agree that the Commission is charged with  
18 balancing the interests of customers and shareholders?

19 A. Yes, I do.

20 Q. Could you explain how your proposal provides that  
21 necessary balance?

22 A. Well, my responsibility is to advocate for residential  
23 ratepayers, not necessarily to provide the balance.

24 Q. I understand that. But you're asking the Commission to

[WITNESS: Eckberg]

1 approve it. And, so, I'm trying to understand how the  
2 Commission could go about approving it and determining  
3 that it provides the necessary balance?

4 A. Well, as you suggested a moment ago, my proposal does  
5 not propose any disallowance of return of the expenses  
6 of -- that the Company has on its generating assets,  
7 it's only the return on those assets. So, I haven't  
8 proposed any disallowance of expenses, other than that  
9 earned return on the assets. So, the Company does  
10 recover its full expenses.

11 Q. Okay. Let's stick with the return on. If I understand  
12 correctly, your fractional disallowance would be on the  
13 full return on, that is the full overall cost of  
14 capital? Including both debt and equity?

15 A. I believe that's the way the proposal is structured at  
16 the moment, yes.

17 Q. Okay. So, let's stick with the debt for a moment.  
18 So, --

19 A. I'm sorry, stick with the --

20 Q. The debt. The debt portion of the --

21 A. Okay.

22 Q. You've said that the Company could recover its other  
23 operating costs and other costs associated with the  
24 plant without any disallowance, is that correct?

[WITNESS: Eckberg]

1 A. That's what I said, yes.

2 Q. But you don't feel it would be appropriate for them to  
3 recover a portion of their debt costs?

4 A. So, if I understand your question, you're suggesting  
5 that it may be more appropriate to apply this  
6 "fractional used and useful" principle to only the  
7 equity portion, because that would more finely focus my  
8 application?

9 Q. I'm just trying to understand exactly what your  
10 proposal is.

11 A. Well, I can understand -- I believe I understand your  
12 question, in that the application of the approach, as  
13 I've explained it in my testimony, would have the  
14 potential to disallow the recovery of some portion of  
15 debt expenses. Is that -- do I understand the  
16 question?

17 Q. Yeah. I just didn't see it as "potential". I thought  
18 that's --

19 A. Actual.

20 Q. I thought that's how it worked.

21 A. Yes. I believe that it would, you're right. And, to  
22 that extent, perhaps a refinement would be appropriate  
23 to my recommendation in this matter.

24 Q. Well, to the extent that debt is disallowed, might that

[WITNESS: Eckberg]

1 make future borrowings more costly, from an interest  
2 rate perspective?

3 A. That's possible.

4 Q. Turning to the equity portion of the return, from an  
5 investor perspective, would your proposal be considered  
6 to be more risky, considering that investors might not  
7 be able to earn a return on the full plant investment?

8 A. Well, I'm not offering any testimony on the riskiness  
9 or return on equity impacts. But I suppose that's a  
10 possibility.

11 Q. So, if it is more risky, would that mean investors  
12 might require a higher return on equity?

13 A. That's possible. I don't know. I'm not allowed to be  
14 an investor in this company.

15 Q. If the Commission were to approve your proposal, would  
16 you support a higher return on equity, consistent with  
17 your proposal?

18 A. I'd have to consider that. I haven't considered it at  
19 the moment.

20 Q. Does your proposal, and this goes similar to something  
21 that Mr. Courchesne was asking you about, does your  
22 proposal really send a message that PSNH should operate  
23 its plants in the same manner as prior to electric  
24 industry restructuring, regardless of adapting to the

[WITNESS: Eckberg]

1 changes in the fuel and energy markets?

2 A. Does it send that message to the Company?

3 Q. Sure. Because you're setting a baseline saying "here's  
4 1993 to 2001, before restructuring. Here's how you  
5 operated your plants. That I think is ideal", under  
6 your -- that's, when I say "I", I mean you.

7 A. Uh-huh. I'll try to keep those pronouns straight.

8 Q. Yes. Me, too. So, can your proposal be seen in that  
9 manner?

10 A. I'm not sure how the Company would interpret it. But I  
11 did acknowledge to Mr. Courchesne's question that there  
12 was the possibility of what I termed a "perverse  
13 incentive", which I think is what you have, similar to  
14 what you're asking me about. And, I suggested, in  
15 response to that, that there might be ways the  
16 Commission could include some other rules or details in  
17 a way the metric is calculated, which would adjust for  
18 that.

19 Q. Just going through my notes here. Energy revenues from  
20 the fossil plants. If, again, take a generating unit,  
21 any one you want, say, in one year, it has a 50 percent  
22 capacity factor. And, on average, it operated at a  
23 penny below market during that time. So, there's a  
24 certain benefit associated with the time that it

[WITNESS: Eckberg]

1 operated. Figure that, basically, a penny below the  
2 market price. Okay?

3 A. Okay. I think I --

4 Q. Now, the following year, it has the same capacity  
5 factor of 50 percent. But, during the time that it  
6 operated, it operated on average at two cents below  
7 market. Now, assume the 50 percent is below your base  
8 level. Does the difference in benefits make any  
9 difference?

10 A. In the proposal as I have presented it here, those  
11 differential benefits that you've identified in your  
12 hypothetical situation would not be realized in the  
13 metric that I have proposed for using, no.

14 Q. But it does tell a little bit of a different picture  
15 about the benefits of when the plant operated. Do you  
16 agree with that?

17 A. Yes. If I understand correctly, you were asking me to  
18 compare a 50 percent capacity factor for a generating  
19 asset that operated at one cent below market value,  
20 versus a 50 percent capacity factor that operated --  
21 for an asset that operated at two cents below the  
22 market value. And, I would agree that there would seem  
23 to be a difference in the overall value of those two  
24 operating scenarios, but that value would not be

[WITNESS: Eckberg]

1 captured in my proposal as I have presented it.

2 Q. All right. Switching gears now, I just want to circle  
3 back to the Newington fuel oil sales. I just want to  
4 make sure I'm clear as to what's left there. You  
5 started, and you made some corrections, you struck some  
6 testimony on Pages 7 and 8 of your testimony?

7 A. Yes, I did.

8 Q. And, so, I'm trying to understand what's remaining of  
9 your recommendation. I'm not clear as to -- well, is  
10 it just that the Company needed to provide additional  
11 information or are you -- if you could clarify that for  
12 me, I'm not quite sure what's left?

13 A. Sure. I'd be glad to. As it stands then, my  
14 testimony, including the corrections that I offered, if  
15 I look at Page 8, beginning on Line 18, it says "The  
16 OCA recommends that the Commission direct the Company  
17 to provide additional analytic support for its decision  
18 to execute the two #6 oil sales in 2012". Continuing  
19 on, after the stricken portion of my testimony, it says  
20 "In addition, the OCA would like an opportunity to make  
21 a recommendation to the Commission after the Company  
22 provides this additional information and before the  
23 Commission issues a decision on the Company's 2012  
24 Energy Service Reconciliation."

[WITNESS: Eckberg]

1                   So, I do feel that I still am somewhat  
2                   lacking in the full explanation about whether the  
3                   Company evaluated other options, and was this the most  
4                   economic decision the Company could have made regarding  
5                   these fuel oil sales. I understand that there were  
6                   benefits to ratepayers from these sales. That is not  
7                   under contention. I've tried to clarify my testimony  
8                   in that regard. There were benefits to ratepayers.  
9                   But was this the highest and best benefit to  
10                  ratepayers? Was the allocation to the ratepayers  
11                  appropriate? I think there's still some elements of  
12                  the sale which could use further explication. But,  
13                  again, it may not be that others agree with that  
14                  recommendation. So, --

15   Q.   Okay. Well, let me try to summarize this. Initially,  
16           your testimony had a recommended disallowance, is that  
17           correct?

18   A.   Related to the oil sales?

19   Q.   Correct.

20   A.   I don't believe I said that. Could you point me to the  
21           language where I recommended a disallowance regarding  
22           the oil sales?

23   Q.   Maybe that was just me reading between the lines.

24   A.   Okay.

[WITNESS: Eckberg]

1 Q. Which have now been struck.

2 A. Yes. You can't read the lines I've struck. That  
3 wouldn't be fair.

4 Q. But I guess my question is, for purposes of this  
5 hearing today, what is your remaining recommendation  
6 and what do you want the Commission to do?

7 A. Well, I think that the language that remains on Lines  
8 18 and 19 is reasonably straightforward. That we  
9 "recommend that the Commission direct the Company to  
10 provide some additional analytic support" to try to  
11 demonstrate that this was the best decision it could  
12 have made. I mean, generally, when we evaluate -- when  
13 we have the opportunity to evaluate the Company's  
14 decisions, we like to know what other options were  
15 available or what the compelling reasons were for  
16 moving ahead with these sales specifically. I believe  
17 we heard some testimony on Thursday, in response to  
18 questioning from Commissioner Scott about the benefit  
19 of reducing the Company's high sulfur Number 6  
20 inventory. I'm not sure what the compelling reasons  
21 were for the Company's moving ahead with these sales,  
22 and did ratepayers receive the appropriate allocation  
23 from those sales.

24 Q. Okay. So, since the filing of your testimony, you did

[WITNESS: Eckberg]

1 receive additional information, correct?

2 A. Regarding the Newington oil sales? I believe that the  
3 information, the additional information I got was that  
4 I was in error in stating that ratepayers paid for the  
5 fuel prior to its use, the fuel that was in inventory.  
6 That was identified as an error in my testimony, based  
7 upon data requests that were issued to me, and in the  
8 rebuttal. But I would not say that we received more  
9 information about the Company's purpose and analysis  
10 regarding the sales.

11 If you feel there's something different  
12 there, that I've missed something, please enlighten me.

13 Q. No. I'm just trying to make sure that it's clear. So,  
14 what you're saying is, although you received some  
15 additional information, you still don't feel you've  
16 seen enough to be able to determine whether this was  
17 the right decision?

18 A. Yes. That's correct. I think the information I  
19 received that I was wrong on a certain aspect of my  
20 presentation, and I have attempted to correct that  
21 element of my presentation about this issue. But I  
22 don't believe that there was additional information  
23 provided by the Company.

24 Q. But that additional information you did receive caused

[WITNESS: Eckberg]

1           you to significantly revise this section of your  
2           testimony, correct?

3   A.    That is correct.

4                   MR. MULLEN:  Thank you.  I have nothing  
5           further.

6                   CHAIRMAN IGNATIUS:  Thank you.  One  
7           second please.  All right.  Commissioner Scott, do you  
8           have questions for Mr. Eckberg?

9                   CMSR. SCOTT:  Yes.  Thank you.  And,  
10          good morning.

11                   WITNESS ECKBERG:  Good morning.

12   BY CMSR. SCOTT:

13   Q.    While you were just discussing the oil sales, I just  
14          want to make sure I understand.  Are you suggesting  
15          that the oil should not have been sold or it should  
16          have been -- got a better sales price?  Or, are you  
17          just saying you just don't have enough information to  
18          evaluate?  Can you help me out?

19   A.    I'm not suggesting that the oil shouldn't have been  
20          sold.  I know that, historically, the OCA, our office,  
21          has pressed the Company on why it maintains such a  
22          large inventory of fuel oil.  So, I know that,  
23          historically, that has been an issue for our office.  
24          And, I know, I understand that the changing economics

[WITNESS: Eckberg]

1 of the plant have resulted in it's being, we're talking  
2 about the Newington plant, that it has been used less  
3 than in previous years, and, therefore, the oil that  
4 was in inventory may be considered to be more than was  
5 needed. But I just feel that there's two issues here.  
6 One of which was an error on my part, which I have  
7 attempted to correct, and the other issue is "Did the  
8 Company make a reasonable decision in moving forward  
9 with those oil sales? And, was the allocation of the  
10 benefits appropriate?" I mean, I do appreciate that  
11 ratepayers benefited from these sales, but was the  
12 benefit the appropriate benefit? I think that element  
13 is still an outstanding concern for me.

14 Q. Thank you for clarifying. On the "fractional used and  
15 useful" approach, I don't know if you called it that,  
16 but I'm calling it that.

17 A. Pretty close to what I call it, I think.

18 Q. Can you flesh that out a little bit for me? Why didn't  
19 your proposal include, for instance, hydro plants?

20 A. Well, Mr. Fossum inquired about that as well. And, as  
21 I said, my review of information is that the hydro  
22 plants are still used and useful, much more fully than  
23 are the fossil fuel generating assets, predominantly  
24 because the hydro assets have a zero fuel cost. The

[WITNESS: Eckberg]

1 water flows without charge down the river.

2 Q. So, is there a threshold point where you would suggest  
3 use of this type of approach?

4 A. I haven't proposed any threshold, but that's a  
5 reasonable question. "At what point one might want to  
6 consider such an application?" But I don't really have  
7 a direct answer for you at the moment.

8 Q. Okay. And, this approach seems rather novel. I was  
9 curious, are you aware of any other commission that has  
10 used this approach or is there precedence for this?

11 A. I think -- I don't have any specific examples I would  
12 like to offer you at this time. I would suggest there  
13 may be examples, which would be included in the OCA's  
14 legal brief on this matter.

15 Q. Okay. Thank you. And, if the Commission -- in the  
16 event the Commission were not to allow a fractional  
17 approach, does your office have a position on whether  
18 that these plants should be ruled as "used and useful"  
19 in their entirety, rather than fractionally?

20 A. I'm not sure I understand the question, Commissioner.

21 Q. Well, you raised, in your brief, you raised the "used  
22 and useful" issue, and you suggest we take a fractional  
23 approach.

24 A. Yes.

[WITNESS: Eckberg]

1 Q. What I was suggesting is, if we were to rule that the  
2 fractional approach is not appropriate, is having this  
3 in your brief, what does that mean to us if we don't  
4 allow the fractional approach? Is the Office saying  
5 that we should decide these assets are not used and  
6 useful? Again, I'm looking -- I'm exploring, I'm not  
7 stating.

8 A. Well, I guess my presumption is that, if the Commission  
9 did not agree with the OCA, with my presentation, with  
10 my recommendation about use of a "fractional used and  
11 useful" approach to these generating assets, my  
12 assumption would be that the Commission would consider  
13 them "fully used and useful", as they have  
14 historically. I guess that would be my estimation of  
15 the options on the table.

16 But, certainly, I suppose we could have  
17 a "zero percent used and useful" as an option on the  
18 table. But I think it would be harder to come to that  
19 conclusion, because the plants are generating  
20 electricity. But I say that just because, if you're  
21 looking at all the options, you could have "not used  
22 and useful at all", "partially used and useful" or  
23 "fully used and useful". That's the full spectrum of  
24 choices available.

[WITNESS: Eckberg]

1 Q. And, would you -- is your supposition that that  
2 spectrum would apply to all the plants or individually  
3 each plant or unit?

4 A. I have proposed that it be applied to the fossil fuel  
5 generating assets. That's the extent of my proposal at  
6 this time.

7 CMSR. SCOTT: Okay. Thank you.

8 CHAIRMAN IGNATIUS: Thank you.

9 Commissioner Honigberg.

10 CMSR. HONIGBERG: Good morning, Mr.

11 Eckberg.

12 WITNESS ECKBERG: Good morning.

13 BY CMSR. HONIGBERG:

14 Q. I have a couple of questions about the "used and  
15 useful" concept as well, once -- going along the lines  
16 of where Mr. Mullen was, I want to make sure I have an  
17 understanding of the concept. I think what you're  
18 proposing is that there be, once this gets triggered,  
19 and actually you haven't figured out what the trigger  
20 would be in all circumstances, but you know it's been  
21 triggered here, or at least you think it has been.

22 A. Uh-huh.

23 Q. That, once it's been triggered, you take rolling  
24 averages as you go, and that, in any one year, that may

[WITNESS: Eckberg]

1 be above or below what the actual capacity is --  
2 capacity factor would be.

3 A. Uh-huh.

4 Q. But that, over time, sometimes it would be great,  
5 sometimes it would be not so great, it would be above  
6 or below. But the concept is, over time, you would  
7 have this building of an average or an average concept  
8 to avoid ups and downs. Is that kind of the thinking  
9 here?

10 A. That was my thinking in using a "rolling average", as  
11 you termed it. Right. So that, if, in a given year,  
12 as the example Mr. Mullen proposed, if, in the 2012  
13 year, if a particular asset was used 81 percent of the  
14 time, compared to its historical average of 80 percent,  
15 we would still be averaging the 81 percent with other  
16 recent years to get the value to use. So, in that  
17 case, it would be the "used and useful" portion would  
18 be less than the actual capacity factor of that year.  
19 However, as you suggest, and as I would suggest, in  
20 other years, that average may be higher than the actual  
21 use of that year.

22 Q. But it's going to be important to figure out how and  
23 when this gets triggered in other contexts, isn't it?

24 A. I suppose that is a consideration the Commissioners

[WITNESS: Eckberg]

1 would need to take into account, yes.

2 Q. Okay. I have a detail question, I don't want to get  
3 too deep in the weeds here. But, with respect to the  
4 Schiller average that you calculated, or I guess you  
5 recalculated in the data response, you maintained the  
6 100 percent cap that you would apply in the table that  
7 was in your prefiled testimony. That doesn't seem  
8 right to me. I mean, if there's a part of the plant  
9 that's operating well above, what -- above 100 percent  
10 from your baseline year, shouldn't that be calculated  
11 into the average? That just seems, you know, if you're  
12 going to take it as one unit, shouldn't it be --  
13 shouldn't they get both the good and the bad and not  
14 have that 100 percent cap?

15 A. Well, that's a potential adjustment, certainly. It  
16 seemed to me that there was a rational basis for  
17 imposing a 100 percent limit. But I can understand  
18 your question that, in the case, if we were to look at  
19 Table 2, on Page 13 of my testimony, in effect, if we  
20 divide the 83 percent by 54.6 percent, shouldn't that  
21 value in that cell be 125 percent, instead of  
22 100 percent? I understand there may be difference of  
23 opinions on that.

24 Q. But the place where I think it would be more important

[WITNESS: Eckberg]

1 to carry it through would be that Hearing Exhibit 13,  
2 which is the data response, which, again, like I think  
3 another data response, has the wrong year on it. But,  
4 on Page 2 of that, where you blended the three Schiller  
5 averages of "68.3", under Item E, "68.3", "100", and  
6 "64.7", I mean, you're going to blend an average, you  
7 should be blending an average, it seems to me.

8 A. It would -- it would impact that calculation, yes.

9 Q. Okay.

10 A. You are correct.

11 Q. All right.

12 A. And, therefore, the overall end result of the  
13 calculation, yes.

14 CMSR. HONIGBERG: All right. I think  
15 people picked up the other questions that I had. Thank  
16 you very much.

17 WITNESS ECKBERG: Thank you.

18 CHAIRMAN IGNATIUS: Thank you. I also  
19 think of most of what I was going to ask you about has  
20 been addressed. Just a couple of final details.

21 BY CHAIRMAN IGNATIUS:

22 Q. On the recommendation on Page 6 of your testimony, --

23 A. "Page 6", did you say?

24 Q. Yes. That you would still be seeking additional

[WITNESS: Eckberg]

1 details regarding the AYFR technical update. Even with  
2 the further information that you received from  
3 Mr. Chung, are you still seeking additional  
4 information?

5 A. No. I felt that, I'm sorry, that I thought perhaps, in  
6 response to Mr. Fossum's questions, I made it clear  
7 that the additional information that was provided in  
8 response to technical session data requests subsequent  
9 to my testimony, and Mr. Mullen's testimony as well,  
10 were both very helpful in providing the additional  
11 details that we were seeking, to make it clear to  
12 everyone how the process was done and to try and  
13 present the same information with this technical update  
14 as was provided in previous technical updates. So, I  
15 feel that this, the Company has met the OCA's request  
16 in this regard. So, we are not seeking any additional  
17 information.

18 Q. Thank you. And, on your recommendation on Page 3, that  
19 the Commission disallow the charges that grew from the  
20 services provided by the NSTAR affiliate, is -- with  
21 the additional information, is it still your  
22 recommendation that that \$900,000 be disallowed?

23 A. Yes. I continue to have that position and that  
24 recommendation for the Commission. We don't feel that

[WITNESS: Eckberg]

1 the requirements for having an affiliate agreement in  
2 place were met by the Company. And, that this -- these  
3 amounts should be disallowed, yes.

4 Q. And, on your recommendation on Page 8, that we hold off  
5 on any decision regarding the oil sales until further  
6 support is received, how long or under what process  
7 would you expect us to order?

8 A. Well, I suppose it's possible that a record request  
9 could be made to the Company to provide some additional  
10 information. And, subsequent to the receipt of that  
11 information, the parties could advise the Commission on  
12 whether they felt that information was responsive and  
13 sufficient to put this -- put the outstanding questions  
14 to rest. And, the Commission could include those  
15 responses in its overall evaluation of the Company's  
16 filing.

17 Q. Well, looking at the -- you attached one of the data  
18 responses on this issue to your testimony. It was the  
19 very final page, Bates Page 56. And, the Company has  
20 already described the sale, in light of lower dispatch  
21 of Newington, and that burning natural gas was a more  
22 economic choice compared to burning oil, and what it  
23 anticipated certain pricing to be. What more are you  
24 looking for? What are the kinds of things that you

[WITNESS: Eckberg]

1 would want to see from the Company, and that you think  
2 we should see from the Company?

3 A. Well, I wonder if there were other options that were  
4 available to the Company.

5 Q. What's an example of what an option might be? I mean,  
6 I don't mean to be too simplistic, but "sell it" or  
7 "burn it" are the two things that I can think of. So,  
8 what are the other options?

9 A. Well, there may be -- there may be options within the  
10 "sell" option. Who did the oil get sold to? Was it a  
11 direct sale to some end-user? Or, was it simply a sale  
12 to some broker, who was then charging large brokerage  
13 fees and simply selling it on to someone else? Those  
14 are the basic sort of things I was wondering --

15 Q. Did you ask that? Was there any questions to that  
16 effect? I mean, this question is a cost/benefit  
17 analysis.

18 A. And, that's what my intent was to try and get, an  
19 analysis that showed this was worthwhile. And, again,  
20 as I suggested earlier this morning, if the  
21 Commissioners do not agree with my recommendation here  
22 that more information is needed, you have the ability  
23 to disagree with me. So, I appreciate your concern in  
24 trying to address my concerns. Thank you.

[WITNESS: Eckberg]

1 CHAIRMAN IGNATIUS: All right. I have  
2 no other questions. Is there any redirect,  
3 Ms. Chamberlin?

4 MS. CHAMBERLIN: I have a couple of  
5 questions to follow up on what Commissioner Scott was  
6 discussing, regarding the hydro assets, and whether or not  
7 they should be included or shouldn't be included.

8 **REDIRECT EXAMINATION**

9 BY MS. CHAMBERLIN:

10 Q. Is there a fundamental market change related to the  
11 cost of gas versus the cost of fuel oil that has taken  
12 place?

13 A. Well, there certainly have been changes in the  
14 marketplace in recent years of fuel costs that have  
15 impacted the amount of economic generation that has  
16 come from these plants, yes.

17 Q. So, the cost of natural gas is now lower than the cost  
18 of oil. Is that a fair statement?

19 A. I'm hesitant to agree directly with that question. I  
20 don't have any details about what time frame you're  
21 talking about. Are you talking about today or 2012?

22 Q. I'm talking about the same -- the same time frame in  
23 your recommendation. When you look at the historic  
24 operation versus the more recent operation, has there

[WITNESS: Eckberg]

1           been a fundamental market change in the fossil fuels  
2           market?

3   A.   Generally, yes.

4   Q.   Yes.  And, that market change does not apply to hydro  
5           units, correct?

6   A.   That's correct.  Because, as I said, the cost of fuel  
7           for hydro plants is the water that flows through them,  
8           which hasn't changed, to my knowledge.

9   Q.   And, also, Mr. Mullen had a hypothetical about prices  
10          being above market price or below market price one cent  
11          and below market price two cents.  Do we have any  
12          information on market clearing prices?  Is that  
13          confidential business data?

14  A.   Well, I interpreted Mr. Mullen's question as sort of a  
15          general hypothetical question comparing two scenarios.  
16          Your question I think is asking me about specific  
17          market information.  I think, historically, there's  
18          market information, market price information available,  
19          to compare dispatch costs, for instance, with actual  
20          market information.  I think there were some data  
21          requests that were subject of some discussion in that  
22          regard in this docket.

23  Q.   And, when Mr. White testified about self-scheduling, we  
24          don't know if that was an economic decision or not?

[WITNESS: Eckberg]

1 A. I believe that's what Mr. White testified on Thursday.  
2 He cautioned everyone to, that a decision to  
3 self-schedule does not mean that the dispatch during  
4 that period was uneconomic, but neither is it known  
5 that it was economic either.

6 Q. Right. We just don't have that information.

7 CHAIRMAN IGNATIUS: Ms. Chamberlin, how  
8 is this redirect?

9 MS. CHAMBERLIN: I was trying to get at  
10 the hypothetical regarding the "one cent below market  
11 price" and "two cents below market price". We never know  
12 if it's one cent or two cents, because we don't have that  
13 information. So, I'll drop it. I'm done.

14 BY MS. CHAMBERLIN:

15 Q. One last question. Has the OCA presented testimony  
16 regarding excess capacity in past dockets?

17 A. I would presume that we have in some docket. But I  
18 don't have any specific examples or citations I can  
19 provide at the moment.

20 MS. CHAMBERLIN: Okay. That's it.

21 Thank you.

22 CHAIRMAN IGNATIUS: Thank you. Then,  
23 you're excused. Thank you, Mr. Eckberg.

24 WITNESS ECKBERG: Thank you.

[WITNESS: Eckberg]

1 CHAIRMAN IGNATIUS: Let's go off the  
2 record.

3 (Brief off-the-record discussion  
4 ensued.)

5 CHAIRMAN IGNATIUS: All right. We are  
6 back. We were just doing a little scheduling work there.  
7 We are going to take a brief recess, let everybody  
8 stretch. And, we will resume at 11:25, with closing  
9 comments on everything, except the issue of the  
10 "fractional used and useful" standard, which will be  
11 addressed in written submissions. The order will be to  
12 begin with Conservation Law Foundation, then OCA, then the  
13 Staff, and, finally, PSNH. Thank you.

14 (Recess taken at 11:13 a.m. and the  
15 hearing resumed at 11:28 a.m.)

16 CHAIRMAN IGNATIUS: Before we begin with  
17 closing statements, is there any objection to striking the  
18 identification on the exhibits and making all of them full  
19 exhibits to the docket?

20 MR. FOSSUM: I have one objection, if I  
21 may. In the presentation of what has been labeled as  
22 "Exhibit 6", there were two documents that made up that  
23 exhibit, two data responses. There's one of them, Tech  
24 Session 2-7. There was extensive questions about that,

1 and my objection does not relate to that one. But, to the  
2 other one that was included there, to the best of my  
3 recollection, there were no questions asked about it,  
4 nobody was even asked to identify what it was. It was  
5 simply provided along with the other document. And, so,  
6 for that reason, I would feel that it would not be  
7 appropriate to include it as a full exhibit, given that  
8 there were no questions about it, and nobody testified to  
9 any of the information in it.

10 CHAIRMAN IGNATIUS: Mr. Courchesne, I  
11 think you were proffering this as an exhibit. Do you have  
12 a response? Mr. Fossum is correct. Our tradition here is  
13 that, if something is not actually used in questioning, it  
14 doesn't become an exhibit. But do you recollect anything  
15 different?

16 MR. COURCHESNE: My response would be  
17 that we discussed the issue generically. And, I apologize  
18 that we did not -- I did not ask the witness about this  
19 specific exhibit. But I would suggest that it's still  
20 properly within the exhibit, because it is really the  
21 missing unit for Exhibit 6 and provides the complete  
22 picture. And, we did discuss the self-scheduling issue in  
23 general as to all the facilities during the course of the  
24 testimony. So, I understand that, I understand that point

1 about discussing the specifics in the future. I would  
2 just ask the Commission to include it in this instance.

3 CHAIRMAN IGNATIUS: Do any of the other  
4 parties have a comment on the question? Ms. Chamberlin.

5 MS. CHAMBERLIN: Your Honor, I did bring  
6 out Newington's low capacity factor. And, this is the  
7 underlying data which shows when it was dispatched and  
8 when it wasn't. And, so, I would ask -- I believe it has  
9 been referred to, again, perhaps not by name, but by  
10 concept, and that it's a useful document to include in the  
11 record, to help explain some of the testimony that has  
12 taken place.

13 CHAIRMAN IGNATIUS: Staff, anything you  
14 want to add?

15 MS. AMIDON: We don't have a position on  
16 Mr. Fossum's request.

17 (Chairman and Commissioners conferring.)

18 MS. AMIDON: Madam Chairman, if I may?  
19 I apologize.

20 CHAIRMAN IGNATIUS: That's all right.

21 MS. AMIDON: I should have pointed out  
22 that that particular data response is attached to Mr.  
23 Cannata's testimony, as one of the data requests that he  
24 attached and considered. And, so, I apologize for not

1 bringing it out when you first asked our position.

2 CHAIRMAN IGNATIUS: All right. Well, we  
3 were inclined to let it in, because it was so closely  
4 related to a number of other questions, and I think the  
5 information kind of slips back and forth between  
6 documents. So, I guess, for both of those reasons, we  
7 don't -- certainly wouldn't reject it. Because it's  
8 already in, maybe we make Exhibit 6 just the single  
9 document that CLF proffered, because the other one has  
10 already been submitted. All right? And, just people keep  
11 in mind, in future proceedings, years ago there was a  
12 notion that any piece of discovery was automatically part  
13 of the record, and we discovered there were all sorts of  
14 things that nobody had ever really inquired into, and yet  
15 we were held to be responsible for that full record. So,  
16 we've gotten a lot stricter about it. Thank you.

17 All right. Other than that  
18 clarification, where Exhibit 6 will now be just the single  
19 document, single being multiple pages, but just the Tech  
20 Session 02-007 response, is there any other objection to  
21 -- is there any objection to striking the identification?

22 (No verbal response)

23 CHAIRMAN IGNATIUS: Seeing none, we'll  
24 do that. Thank you.

1                   Then, I think, unless there's anything  
2 else, we'd begin with closings?

3                   (No verbal response)

4                   CHAIRMAN IGNATIUS: And, start first  
5 with Mr. Courchesne.

6                   MR. COURCHESNE: Thank you, madam Chair.  
7 Thank you, Commissioners. CLF appreciates very much the  
8 opportunity to participate in this docket as an  
9 intervenor. As instructed by the Commission in its order  
10 defining the scope of the proceeding, we have focused our  
11 participation on the economic issues that are the proper  
12 subjects of inquiry in a reconciliation docket.

13                   The overall frame that CLF brings to  
14 this docket is well illustrated in last June's Staff  
15 report on PSNH's ownership of generation. PSNH's fossil  
16 generation fleet is no longer economic for much of the  
17 year. Its customer base for Energy Service has declined  
18 dramatically across all sectors. That trend accelerated  
19 in 2012, the subject of this docket. PSNH's Energy  
20 Service rates have typically exceeded most available  
21 retail rates for many years now. This was certainly the  
22 case for 2012 as a whole. If, for example, you compare  
23 PSNH's Energy Service rate for 2012, to the competitively  
24 procured supply rates of Granite State Electric Company

1 for that same year, and then multiply the difference by  
2 the kilowatt-hours PSNH sold, you get about \$50 million.  
3 CLF sees that figure as a \$50 million subsidy paid by PSNH  
4 electric Energy Service customers to support PSNH's supply  
5 choices overall and its return on investment. That  
6 difference should be grave cause for concern, not in a  
7 prospective -- not just in a prospective policy sense in  
8 the Commission's investigation docket, but also in every  
9 Energy Service docket, where PSNH is seeking Commission's  
10 approval of Energy Service costs.

11 It's within this context that CLF raised  
12 concerns during our cross-examinations of Staff and PSNH  
13 witnesses. To run through briefly what we learned from  
14 that testimony, PSNH offered that, with some plants,  
15 almost exclusively self-scheduled its generation, and  
16 takes in revenues from the ISO-New England market at  
17 whatever clearing price level the market offers, even if  
18 the price is sometimes less than PSNH's marginal cost of  
19 production. We learned that PSNH follows its own economic  
20 dispatch model, that it attempts to predict when its units  
21 will be economic in the marketplace. However, PSNH does  
22 not conduct any meaningful periodic or standardized  
23 evaluation of the economic success of the model, nor does  
24 it attempt to support its decisions in its filings with

1 the Commission.

2 We also learned that Staff's consultant  
3 did not review whether PSNH's economic dispatch model was  
4 effective at predicting market prices. Indeed, there was  
5 no review of actual data and no benchmarking of PSNH's  
6 performance against any commercial or industry standard.  
7 In essence, PSNH's economic decisions regarding whether or  
8 not to run its generation are made in a black box.

9 In the testimony and exhibits, there are  
10 warning signs that these decisions have resulted in  
11 avoidable losses to ratepayers. As the Commission  
12 considers its ruling in this docket, CLF would ask the  
13 Commission members to look back through Exhibit 6, 9, and  
14 10 together. As we explored during cross-examination,  
15 they plainly show when PSNH operated Merrimack Station out  
16 of merit to conduct Scrubber testing, a fact that PSNH  
17 confirmed in its data response that we've marked as  
18 "Exhibit 7". But they also have shown numerous other  
19 instances where PSNH self-scheduled its units, and weekly  
20 revenues were less than or very close to a unit's cost of  
21 production. And, considering fixed costs and return on  
22 equity, inarguably, in those instances, imposing  
23 above-market costs on customers. This is true at  
24 Merrimack; it's true at Schiller; it's true at Newington.

1           It's important to note that PSNH says it  
2 makes daily decisions to run its units. So, a daily, not  
3 a weekly review, is what's called for. And, even at the  
4 weekly level, there are clear red flags that PSNH's  
5 economic dispatch model resulted in uneconomic operations,  
6 during which time PSNH ratepayers subsidized the wholesale  
7 market.

8           It's very possible that at least some of  
9 these instances could be judged imprudent based on  
10 circumstances at the time, even those instances when the  
11 Company was conducting environmental or other testing.  
12 For example, did PSNH run Schiller units out of merit to  
13 conduct dry sorbent injection testing? Could PSNH have  
14 waited to conduct this testing on days when the units were  
15 in economic merit? This is exactly the type of review  
16 that Mr. Cannata conducts so ably and exhaustively of  
17 outages, but almost the flip-side. He conducts those from  
18 an engineering perspective and asks "could the Company  
19 have done something differently, even a very small thing,  
20 in a manner that would have saved ratepayers money?"

21           We also know, from exploring the  
22 Scrubber over-market charges that were incurred, at times  
23 when market prices would not have supported Merrimack  
24 Station's operations, but PSNH ran the units anyway to

1       conduct testing of the Scrubber Project. That PSNH can  
2       readily calculate the extent to which PSNH units ran out  
3       of merit and the associated costs. This does not need to  
4       rise to the level of an audit, as Mr. Cannata suggested.  
5       It would seem to be a straightforward regulatory task to  
6       review the instances that PSNH ran one or more of its  
7       units out of economic merit, require PSNH to explain in  
8       detail the reasons it ran the units, and to quantify  
9       whatever benefits, whether operational or market-related,  
10      PSNH customers gained by choosing to ignore the market's  
11      economic signal not to run.

12                   To be very clear, CLF is not saying at  
13      this point that, based on the evidence before you in this  
14      docket, that PSNH's decisions were clearly wrong, they  
15      were unwise or they were imprudent. What we are saying is  
16      that the Commission has virtually no basis in the record  
17      to affirmatively conclude that they are prudent.

18                   In an environment where PSNH's units  
19      are, more often than not, economic, perhaps this type of  
20      review would not be as critical. But we are living in a  
21      paradigm of the lower capacity factors that are described  
22      in Mr. Eckberg's testimony. The daily decisions whether  
23      or not to run PSNH's power plants has significant economic  
24      ramifications for ratepayers. And, with the units' new

1 role in the market as intermediate or even peaking units,  
2 it is incumbent upon the Commission and Staff and the  
3 Company to adjust its -- adjust their practices. The  
4 repeated refrain that "we've always done it this way" may  
5 be true, but it does not prove that PSNH has met its  
6 burden today.

7 Of course, terrible economics of PSNH's  
8 generation fleet raise a much deeper question than  
9 self-scheduling practices. They run squarely into PSNH's  
10 supply decision to continue owning and operating its  
11 generating plants. While the Commission may be  
12 investigating these issues in other dockets, in our view,  
13 they play a major role here as well, because each rate  
14 approval implicitly blesses PSNH's approach to providing  
15 energy service to default customers in this unsustainable  
16 and economically damaging manner. That's why, as we will  
17 explain in our written submission, that we strongly  
18 support the OCA's effort to employ the "used and useful"  
19 concept to recognize that PSNH's generating assets are not  
20 providing sufficient value to customers.

21 As a brief aside, we also learned from  
22 Mr. Smagula that PSNH is undertaking a new environmental  
23 compliance project at Schiller Station to meet new EPA  
24 mercury and air toxic rules. It incurred \$50,000 in

1 costs, or thereabouts, in 2012 in support of this project.  
2 It would seem to be something about which the Commission  
3 should be fully informed, especially because it implicates  
4 a potentially significant long-term capital decision at  
5 PSNH's oldest, least efficient and most depreciated units.  
6 Instead, the issue is nowhere addressed in PSNH's filing  
7 or in Staff's testimony.

8 In the docket -- the Commission docket  
9 on PSNH's Integrated Resource Plan, CLF submitted detailed  
10 and uncontested evidence demonstrating sort of any number  
11 of assumptions and sensitivities into the future that  
12 those -- those 1940s and '50s vintage units at Schiller  
13 are uneconomic to operate and would never be in service if  
14 forced to compete in the market. So, that's the context  
15 in which that capital decision should come under scrutiny.

16 In short, the Commission's review of  
17 PSNH's costs in this and future dockets requires a set of  
18 information that is commensurate with the demonstrable  
19 need for intensive scrutiny of PSNH's economic decisions  
20 regarding its generation. In this docket, there were  
21 considerable limits on CLF's ability to elicit that  
22 information. And, it really, fundamentally, it cannot be  
23 the duty of an intervenor, like CLF, to help PSNH meet its  
24 burden of production, nor to ensure that Staff has

1 conducted a robust review. These matters are squarely the  
2 responsibility of PSNH in the first instance, and their  
3 filing did not completely address them.

4 It is now the Commission's obligation to  
5 sort through what we see as an incomplete record. As a  
6 legal matter, if PSNH's filing does not establish that its  
7 costs were prudent, the Commission must not approve the  
8 filing. CLF understands that, as in the past, the  
9 Commission may be inclined at this point to leave the  
10 issues that CLF has identified to its and other policy  
11 maker's future decisions. Even so, CLF asks at this time  
12 that the Commission instruct the Company and Staff to pay  
13 closer attention to these issues in future dockets,  
14 including the 2013 reconciliation docket that will  
15 commence this year. In those future dockets, PSNH should  
16 be instructed to justify any daily self-scheduling  
17 decisions that resulted in above-market charges to  
18 ratepayers. And, Staff should scrutinize those  
19 justifications, just as it does now for outages.

20 In this regard, the Commission should  
21 consider and take administrative notice of a decision by  
22 the Connecticut PURA from 2012. Which requires an entity,  
23 with a cost of service contract, to file a daily market  
24 report for its peaking generation that allows for meaning

1 review of self-scheduling decisions. The PURA docket for  
2 that is Docket Number 11-12-02, Application of PSEG New  
3 Haven, LLC, for establishment of 2012 revenue  
4 requirements. This PURA order is dated June 2nd, 2012.  
5 The relevant page of that order is 26.

6 As a final point, and as was discussed  
7 at length in the hearing, PSNH should break out all  
8 Scrubber costs in the filing with a reasonable degree of  
9 specificity, and clearly explain what is and is not  
10 included in the gross under recovered costs. This will be  
11 important at least through this year while the Scrubber  
12 docket remains pending. In any order on this docket, the  
13 Commission should make clear that it is not addressing the  
14 prudence or reasonableness of any such Scrubber costs.

15 Thank you, Commissioners, for your  
16 patience and attention, and for allowing CLF to  
17 participate in this docket.

18 CHAIRMAN IGNATIUS: Thank you.  
19 Ms. Chamberlin.

20 MS. CHAMBERLIN: Thank you. New  
21 Hampshire has a unique mixture of competitive and  
22 regulated markets with electric generation. No other  
23 state and no other utility has that exact mixture, which  
24 includes both full recovery of the cost of generation from

1 default customers and, at the same time, customer choice  
2 of suppliers through a regional competitive electricity  
3 market. This unique combination creates new, never before  
4 experienced policy conflicts, and in balancing investor  
5 and ratepayer interests.

6 A significant policy concern is that of  
7 transparency. And, it is more important now than ever  
8 before because of the hybrid market that PSNH is operating  
9 in. We have the statute, 366:3, that requires that there  
10 is an affiliate agreement and that it is filed. PSNH has  
11 not met those requirements. And that, in and of itself,  
12 is enough to cause a disallowance. However, even more  
13 importantly is the limit of information provided regarding  
14 these services. I mean, \$900,000 is a significant amount  
15 of money, and we just don't know what they were for. It's  
16 very troubling that PSNH does not state that it will  
17 rectify this in the future. They are saying that, if they  
18 have an affiliate that gives services through NUSCO, they  
19 still won't file the affiliate agreement. I find that is  
20 against the letter of the law and against the spirit of  
21 the law. The spirit of the law is that PSNH customers  
22 should not pay for costs that do not benefit them.

23 In particular, with a merger, we had  
24 endless representations in DE 11-014, including an

1 affidavit from their CEO, Financial Director, Executive  
2 Vice President, that there will be no adverse effect from  
3 this merger. These are merger costs. Even if they are  
4 insignificant to NU, they should not be in the rates of  
5 PSNH customers. PSNH simply has not met its burden in  
6 proving that these costs should be allocated to PSNH  
7 ratepayers.

8           Along with the transparency argument is  
9 OCA's recommendation that there be additional data  
10 regarding the fuel sales. Again, we simply don't have the  
11 underlying cost/benefit analysis. We asked the question,  
12 we got a very summary response. We are delighted that  
13 there's a benefit to ratepayers, but we simply don't have  
14 significant data to really understand that in the big  
15 picture. The same is true for the accounting changes. We  
16 pressed for additional information, and we received it,  
17 but there seems to be a lack of awareness that "business  
18 as usual" no longer applies. If we do a technical change  
19 to the Average Year of Retirement, it lower costs in the  
20 near term. That has an effect on the competitive market.  
21 Is that a fair effect? Is that a good effect? We haven't  
22 even begun to scratch the surface on that. But, to simply  
23 say "it's a technical change and we've done it the same  
24 way we always have", is no longer sufficient. So, we

1 would ask that any impact on rates be given the detailed  
2 analysis that the competitive/regulated market blend  
3 deserves.

4                   Particularly where the position of these  
5 plants is under investigation in IR 13-020, transparency  
6 and full disclosure is of the utmost importance. A  
7 short-term change may be fine, except what are the  
8 long-term implications if those plants are no longer  
9 operating? Is that going to shift costs where they don't  
10 belong? All of these questions remain, and they simply  
11 are not being fully addressed.

12                   Regarding the data provided on the --  
13 I've run out of notes -- regarding the data provided on  
14 the -- well, on the "used and useful", we are addressing  
15 that in our closing arguments. I would submit, in  
16 general, that the application in other situations is  
17 unlikely to take place, because there is no other entity  
18 that has exactly this combination, where we have  
19 50 percent of the customers paying 100 percent of the  
20 costs. That is why it's appropriate to look at it in this  
21 case, and perhaps not in any other. So, the fairness of  
22 it comes from there is no economic incentive for the  
23 Company to do anything else but collect 100 percent of its  
24 shareholder return. Why wouldn't it? Why wouldn't it

1 just keep these plants on life support as long it can  
2 collect that shareholder return? There's really no reason  
3 for them to do otherwise. And, we are trying to say that  
4 that is an imbalance in the investor/shareholder  
5 calculation. So, I look forward to addressing that more  
6 fully in the written comments. Thank you.

7 CHAIRMAN IGNATIUS: Thank you. Ms.  
8 Amidon.

9 MS. AMIDON: Yes. Thank you, madam  
10 Chairman. At the outset, I'd like to address some of the  
11 comments made by Mr. Courchesne regarding Staff's review  
12 and Staff's consultant's review of this filing. Staff's  
13 consultant conducted its review in the typical manner that  
14 it has conducted its review since we've engaged Mr.  
15 Cannata through Accion and other entities. I will point  
16 out that, in connection with, for example, the new focus  
17 of PSNH on short-term sales, of excess energy, and also on  
18 short-term purchases, was adopted in part because of one  
19 of Mr. Cannata's recommendations in a prior docket, to  
20 avoid those long-term commitments that had resulted in  
21 significant under recoveries for the Company in a couple  
22 of years.

23 I would also point out that Mr.  
24 Cannata's testimony regarding some of the issues,

1 particularly with Schiller, where there were some  
2 self-dispatch, the record will show that the Company saved  
3 costs overall for customers by running overnight, rather  
4 than shutting down and starting up again.

5 And, I just wanted to point out that  
6 some of these details are in the record. And, you know,  
7 Mr. Courchesne did not have a witness to bring some of his  
8 arguments before the Commission. But, having said that, I  
9 would refer to the record to develop the factual basis for  
10 any Commission ruling.

11 Also, I agree, and Staff agrees, that  
12 the Commission should continue unimpeded in its review of  
13 PSNH continued ownership of generation. I understand the  
14 Commission has retained a consultant who is reviewing,  
15 with the Company, economic data regarding each of the  
16 plants involved in its continued ownership, and we believe  
17 that should go forward unimpeded.

18 However, insofar as the model that the  
19 Commission has developed to review PSNH's prudent costs on  
20 a retroactive basis, at this time, and until there's a  
21 legislative change or some other change in ownership,  
22 there is no alternative except to follow statutory  
23 guidelines on how to set rates.

24 Having said that, you know, the whole

1 purpose of this process is to look backwards and determine  
2 whether the costs incurred by PSNH were the actual,  
3 prudent and reasonable costs of providing Energy Service  
4 pursuant to RSA 369-B:3, IV(1)(a). Staff conducted its  
5 investigation and concluded that the costs claimed by the  
6 Company are reasonable and actual costs incurred by PSNH  
7 for calendar year 2012.

8           Regarding the Newington oil sales,  
9 Staff's position is that the issue regarding the oil sales  
10 is resolved, and that there's sufficient information in  
11 the record to evaluate and conclude that the oil sales  
12 were made appropriately. We also have stated in  
13 Mr. Mullen's testimony that the use of the methodology by  
14 PSNH in establishing the Average Year for Retirement, or  
15 what otherwise is referred to as "AYFR", is appropriate,  
16 and the Settlement Agreement specifically calls out that  
17 issue as being resolved, and we support it.

18           Finally, regarding the fact that there's  
19 no agreement filed between NUSCO and NSTAR-EGC, I would  
20 point out that RSA 366 requires a public utility to file  
21 an agreement with affiliate with the Commission. Insofar  
22 as PSNH has -- is a public utility, it has filed an  
23 agreement with its affiliate NUSCO. But, NUSCO, and  
24 NSTAR-EGC, when it existed, they are not a public utility,

1 and they're not under the jurisdiction of this Commission.  
2 So, we do not find PSNH's failure to file that agreement  
3 to be inconsistent with the statute. And, we note that,  
4 if the Commission wants to see those agreements, Mr. Chung  
5 attached the agreement in his rebuttal testimony.

6 Finally, Staff participated in  
7 development of the Settlement Agreement. And, we believe  
8 it's a reasonable resolution of the issues in the docket.  
9 The Commission has authority to consider the Settlement  
10 Agreement in its entirety, and to determine whether or not  
11 the resulting rates are just and reasonable.

12 And, finally, addressing the concept  
13 advanced by Mr. Eckberg in his testimony, we do not  
14 support a concept of there being a "partial" or  
15 "fractional used and useful". It's not supported by the  
16 statute, and we'll give further information on that in our  
17 legal brief.

18 But, having said that, Ms. Chamberlin's  
19 summary on how that might be applied only to PSNH at  
20 closing even differs from what Mr. Eckberg said on the  
21 stand, during his testimony and under cross-examination.  
22 And, hence, Staff is even more concerned now whether or  
23 not that this proposal has, you know, what other  
24 unintended consequences there may be from even considering

1 such a drastic change in policy on the "used and useful"  
2 concept.

3 Staff supports the Settlement Agreement  
4 and recommends that the Commission approve it. Thank you.

5 CHAIRMAN IGNATIUS: Thank you.

6 Mr. Fossum.

7 MR. FOSSUM: Thank you. I would agree  
8 initial -- I'm sorry. I would begin initially by, I  
9 guess, I hate to begin this way, but by objecting to the  
10 request by CLF that the Commission take administrative  
11 notice of an order from two and a half years ago, in a  
12 docket -- a PURA docket in Connecticut. The Commission's  
13 rules on administrative notice spell out when and how  
14 administrative notice is to be taken. And, they provide  
15 for an opportunity for somebody to challenge the proper  
16 inclusion of an item that's been requested for  
17 administrative notice. The first notice that anybody, I  
18 think, received of this interest was a few moments ago.  
19 So, while I understand the order is out there, it says  
20 what it says, I would object to the Commission taking  
21 administrative notice of its contents.

22 That said, I would return the Commission  
23 to its own order in this docket establishing the scope of  
24 the proceeding, Order 25,540, back on July 9th. In there,

1 the Commission states quite clearly that, in connection  
2 with the costs of PSNH's generation fleet, the Commission  
3 would review the planned outages and associated power  
4 purchases to determine whether PSNH acted in a prudent and  
5 reasonable manner. And, with unplanned outages,  
6 investigate the cause of the outages, the associated power  
7 purchases, and assess whether the Company took -- could  
8 have taken reasonable steps to avoid the outages, and  
9 understand whether the purchases for replacement power  
10 provided reasonable value to customers. That -- there's  
11 additional language in the Commission's order, but, in  
12 large measure, that defines the scope of the docket, and  
13 that is the scope of the review that Commission's  
14 consultant -- that the Staff's consultant conducted.

15 Staff's consultant reviewed PSNH's  
16 operation of its fleet, the costs associated with it, the  
17 unplanned outages, and the costs associated with those.  
18 Reviewed, as is noted in the order, plant performance in  
19 2012, plant outages, replacement power purchases, and  
20 other purchases of power and capacity. That was the scope  
21 of the docket, that was the review that Staff's consultant  
22 conducted.

23 While Mr. Courchesne said -- asked for a  
24 great many things, and noted a great many issues, and I

1 shan't attempt to address each one individually, there are  
2 a few I wish to discuss. He's called for a daily review  
3 of PSNH's decisions regarding its generation fleet. It's  
4 difficult for me to understand what -- how detailed a  
5 daily review would be in his analysis and how close that  
6 might hue toward the Commission or somebody else making  
7 decisions on behalf of the Company. It's my understanding  
8 that it's not the role of this Commission to determine  
9 those decisions for the Company, but for the Company to  
10 make those decisions for itself and to bear the  
11 consequences of them.

12           Whether Mr. Courchesne would like more  
13 information, I think it's very evident that he would.  
14 But, as the Commission has already noted in its order  
15 regarding the motion to compel in this docket, there's a  
16 tremendous amount of information already provided. It's  
17 not clear that providing more information would, in fact,  
18 provide any greater detail or enlightenment, and would  
19 require a tremendous undertaking on behalf of the Company.

20           I would also respond to the request that  
21 more information, including these daily decisions, be  
22 included in future dockets, which is similar to the  
23 request of the OCA, that any decision that has any impact  
24 on rates be spelled out in a detailed analysis. It's not

1 clear to me how much analysis they feel is necessary.  
2 PSNH has a reasonable process. The analysis that it has  
3 presented over a period of many years has been deemed by  
4 the Commission to be adequate.

5 While in retrospect, pretty much any  
6 decision of any company on any issue could be second  
7 guessed. That's not the inquiry we should be undertaking.  
8 The inquiry should be "whether PSNH has made reasonable  
9 decisions and prudent decisions?" And, PSNH submits that  
10 it has done so. For 2012, PSNH's decisions regarding its  
11 generating facilities were, in fact, reasonable and  
12 prudent.

13 With regard to some of the specific  
14 issues that have otherwise been raised, and in particular  
15 the issue of PSNH's affiliate costs, PSNH would echo what  
16 Staff has said regarding the context of the statute on  
17 affiliate transactions. The statute references contracts  
18 "hereinafter entered between a public utility and its  
19 affiliate." PSNH has made clear, there was no contract  
20 between PSNH and NSTAR Electric & Gas Company. That is in  
21 Mr. Chung's testimony, and I don't believe anybody has  
22 disputed that. The filing obligation comes from the  
23 existence of the contract itself, and there was no  
24 contract to file.

1           The statute does also say "the  
2       Commission may require a public utility to file...full  
3       information with respect to any purchase or sale from an  
4       affiliate". And, PSNH would agree that the Commission has  
5       authority to ask for that information or that the  
6       Commission may require that it be filed. To the best of  
7       PSNH's knowledge, the Commission has never required that.  
8       To disallow \$900,000 in costs, on a misreading of the  
9       requirements of the statute, we think is inappropriate.

10           With regard to the Average Year of Final  
11       Retirement issue, PSNH understands that issue to have been  
12       resolved to the satisfaction of the OCA, which raised it.

13           With regard to the oil sales at  
14       Newington Station, PSNH agrees with Staff that the issue  
15       should be considered closed. To the extent that the OCA  
16       may believe that there is some other cost/benefit analysis  
17       out there, such analysis would be speculative. In this  
18       case, PSNH made a sale that was done consistent with  
19       recommendations of the OCA itself in prior dockets, and  
20       customers recognized a reasonable value for that  
21       transaction.

22           I will reserve any comments on the "used  
23       and useful" issue for further written submission. I do  
24       have two other items that I wanted to touch on very

1 briefly that interrelate to a degree. Both CLF and the  
2 OCA in their closings have indicated that there are  
3 "longer term issues" regarding PSNH's generating  
4 facilities. In fact, the CLF specifically mentions  
5 "potential future capital decisions" regarding Schiller  
6 Station. All of those things are potential future events.  
7 This is a reconciliation docket with regard to the  
8 decisions that PSNH made in 2012. In 2012, PSNH made  
9 reasonable and prudent decisions regarding its generating  
10 stations, their dispatch to the market, their  
11 availability, and with regard to any of the unplanned  
12 outages that impacted them. PSNH has a reasonable process  
13 for providing value to its customers.

14 And, PSNH would recommend to the  
15 Commission that it approve the Settlement Agreement as  
16 entered into between the Company and Staff, and that it  
17 otherwise conclude that PSNH has acted reasonably in 2012  
18 as regards its Energy Service customers and the rates at  
19 issue here. Thank you.

20 CHAIRMAN IGNATIUS: Thank you. All  
21 right. We will take all of that under advisement and  
22 await the written submissions, which we agreed last  
23 Thursday would come in on, was it Tuesday, February --

24 MR. FOSSUM: Fourth.

1 CHAIRMAN IGNATIUS: -- 4th, thank you.

2 And, did we set a limit of ten pages?

3 MS. CHAMBERLIN: Ten pages, yes.

4 CHAIRMAN IGNATIUS: You can figure out  
5 your font and your columns, your margins yourselves. But,  
6 obviously, we have listened to everything that's gone on,  
7 so, you don't need to restate all of the arguments, but  
8 anything further to summarize those concepts or add any  
9 additional citations on the law would be useful.

10 All right. With that, I appreciate  
11 everyone's work in getting through this and finding time  
12 to get right back to be able to finish before we all lost  
13 track of where we were. And, glad we were able to finish  
14 with a solid morning. So, thank you. We're adjourned.

15 **(Whereupon the hearing was adjourned at**  
16 **12:07 p.m.)**

17

18

19

20

21

22

23

24