

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

DOCKET NO. DE 14-238

2015 PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
RESTRUCTURING AND RATE STABILIZATION AGREEMENT

DIRECT TESTIMONY OF JOHN J. REED

July 6, 2015

Redacted in Support of Litigation Settlement
(Redacted Testimony Indicated in Gray Highlighting)

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1 **Introduction**

2 **Q. Please state your name and business address.**

3 A. My name is John J. Reed. My business address is 293 Boston Post Road
4 West, Suite 500, Marlborough, Massachusetts 01752.

5 **Q. By whom are you employed and what is your position?**

6 A. I am the Chairman and Chief Executive Officer of Concentric Energy
7 Advisors, Inc. (“Concentric”) and CE Capital Advisors, Inc.
8 (<http://www.ceadvisors.com/>).

9 **Q. On whose behalf are you submitting this testimony?**

10 A. I am submitting this testimony on behalf of Public Service Company of New
11 Hampshire (“PSNH”) as part of the approval process for the 2015
12 Restructuring and Rate Stabilization Agreement (“Agreement”).

13 **Q. Please describe your educational background and professional
14 experience.**

15 A. I have more than 35 years of experience in the energy industry, and have
16 worked as an executive in, and consultant and economist to, the energy
17 industry. Over the past 27 years, I have directed the energy consulting
18 services of Concentric, Navigant Consulting, and Reed Consulting Group. I
19 have served as Vice Chairman and Co-Chief Executive Officer of the largest
20 publicly-traded management consulting firm and as Chief Economist for the
21 nation’s largest gas utility. I have provided regulatory policy, transactions and

1 regulatory economics support to more than 100 energy and utility clients and
2 have provided expert testimony on a wide variety of regulatory, economic and
3 financial matters on more than 150 occasions before the Federal Energy
4 Regulatory Commission (“FERC”), Canadian regulatory agencies, state utility
5 regulatory agencies, various state and federal courts, and before arbitration
6 panels across North America. I have also been involved in numerous utility
7 transactions over the past 20 years, including mergers, divestitures, asset
8 acquisitions and reorganizations. Recently, I have advised clients involved in
9 utility transactions in Massachusetts, Connecticut, New Hampshire, Arizona,
10 Wisconsin, Illinois, Michigan, Minnesota, Indiana, and Louisiana. I, and
11 members of the Concentric team, were heavily involved in nearly all of the
12 utility generation divestitures in the Northeast, advising either the seller or a
13 potential buyer in these divestitures. As part of these activities, I and others at
14 our firm conducted all three of the divestiture auctions that NSTAR initiated
15 post deregulation. Attachment A to this testimony provides my background
16 and a list of prior engagements in which I have provided expert testimony.

17 **Q. Please describe Concentric’s and CE Capital’s activities in energy and**
18 **utility engagements.**

19 **A.** Concentric provides financial, economic advisory and management consulting
20 services to many and various energy and utility clients across North America.
21 Our regulatory, economic and market analysis services include utility
22 ratemaking and regulatory advisory services, energy market assessments,
23 market entry and exit strategies, business unit strategy development, demand

1 forecasting, resource planning, and energy contract negotiations. Our
2 financial advisory activities include both buy and sell-side merger, acquisition
3 and divestiture assignments, due diligence and valuation assignments, project
4 and corporate finance services, and transaction support services. In addition,
5 we provide litigation support services on a wide range of financial and
6 economic issues on behalf of clients throughout North America. CE Capital is
7 a fully registered broker-dealer securities firm specializing in energy industry
8 merger and acquisition activities. As CEO of CE Capital, I hold several
9 securities licenses that cover all forms of securities and investment banking
10 activities.

11 **Q. What is the purpose of your testimony in this proceeding?**

12 A. One element of the Agreement is PSNH's commitment to "expeditiously
13 pursue divestiture of PSNH's owned generation fleet upon final Commission
14 approval of the settlement agreement reflecting the provisions of this
15 Agreement."¹ The Agreement further provides that PSNH would engage an
16 expert consultant regarding typical divestiture processes and such expert
17 would submit testimony in this proceeding for the Commission's review.²
18 The Concentric team, led by me, is that expert and the purpose of my
19 testimony is to review the divestiture-related provisions in the Agreement and

¹ 2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement, June 10, 2015, pg. 16.

² 2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement, June 10, 2015, pg. 17.

1 to offer my perspective on the divestiture of PSNH's generating plants and the
2 efforts in the near-term to prepare for this divestiture.

3 **Q. Which of PSNH's generating plants are part of this divestiture**
4 **commitment?**

5 A. All of PSNH's owned generation fleet is included in the divestiture
6 commitment. As described in more detail in the testimony of Mr. Smagula,
7 this includes three thermal facilities, ten hydro facilities, and two remotely
8 located combustion turbines as listed below (collectively referred to as
9 "Generating Assets" or "Generating Plants").

10 Thermal Facilities:

- 11 • Merrimack Station
- 12 • Newington Station
- 13 • Schiller Station

14 Hydro Facilities:

- 15 • Smith Station
- 16 • Gorham Station
- 17 • Androscoggin Reservoir Company
- 18 • Canaan Station
- 19 • Ayers Island Station
- 20 • Eastman Falls Station
- 21 • Amoskeag Station
- 22 • Hooksett Station

1 • Garvin Falls Station

2 • Jackman Station

3 Remote Combustion Turbines:

4 • Lost Nation Combustion Turbine

5 • White Lake Combustion Turbine

6 PSNH also has a minority ownership interest in Wyman Unit 4 which will
7 also be sold, but may be sold outside of the auction process specified for the
8 other generating plants.

9 **Q. How is the remainder of your testimony organized?**

10 A. Section II of my testimony provides my key conclusions. In Section III, I
11 discuss the commitments made in the Agreement and the objectives which
12 will guide the divestiture of PSNH's Generating Assets, including how PSNH,
13 and the Commission, might best facilitate achieving these objectives and
14 satisfying these requirements. Section IV provides a discussion of my
15 understanding of Non-Advocate Staff's June 17th Response to the Motion of
16 the Settling Parties and the divestiture process and schedule I believe is most
17 appropriate. In Section V, I discuss the PSNH divestiture plan more
18 specifically, focusing on the near-term steps PSNH is taking to prepare for the
19 divestiture, including the development of specific terms of sale.

1 **Key Conclusion**

2 **Q. Please summarize the key conclusions of your testimony.**

3 A. The key conclusions of my testimony are that the Agreement:

4 • Establishes the guidelines for a typical divestiture process that is
5 consistent with industry norms and will assist PSNH in meeting its
6 divestiture commitments of: 1) maximizing the Total Transaction Value
7 (“TTV”); 2) minimizing stranded costs to ratepayers; 3) establishing a
8 competitive energy market; and 4) providing certain employee and host
9 community protections.

10 • Provides for a reasonable schedule and process that would be expected by
11 industry participants and should satisfy the Non-Advocate Staff’s
12 overarching objective of an expeditious schedule.

13 In addition, I conclude that:

14 • PSNH has appropriately begun preparing for the auction as it is well aware
15 that if the Commission approves the Agreement, the effort that is needed
16 to effectively pull together all of the materials necessary for a successful
17 auction, could take a significant amount of time.

18 • Non-Advocate Staff’s proposal for development of both an independent
19 environmental assessment of PSNH’s Generating Assets and a general
20 economic assessment of the potential impacts of the sale of PSNH’s
21 generating assets on the economy in PSNH’s service territory, are
22 unnecessary, given the commitments recently made by the Settling Parties

- 1 to pursue these activities, and should not delay the Commission's
2 consideration of the Agreement.
- 3 • There is little or no benefit, but substantial risk, that would be created by
4 adopting the Non-Advocate Staff's proposal for a conditional auction,
5 including that it could damage the success of any subsequent binding
6 auction.

7 **Divestiture Commitments and Objectives**

8 **Q. What is your understanding of the divestiture commitment made in the**
9 **Agreement?**

10 A. As noted earlier in my testimony, as part of the Agreement PSNH has
11 committed to pursuing the divestiture of its generating assets, after the
12 Commission has approved the Agreement. The Agreement lays out a number
13 of objectives for the divestiture overall, as well as some specific requirements
14 which must be met in any sale(s) of PSNH's Generating Plants. I describe
15 these objectives and requirements in more detail later in this section of my
16 testimony, as well as how PSNH and the Commission, might best facilitate
17 achieving these objectives and satisfying these requirements. It is also
18 important to note that the Commission will have administrative oversight for
19 the auction process through which the generation assets will be sold.

1 **Q. Are the objectives summarized above consistent with what you have seen**
2 **in other generation divestitures?**

3 A. While each divestiture is unique to its particular assets and circumstances, the
4 objectives specified in the Agreement are consistent with the objectives I
5 would expect for a divestiture of this kind. Maximizing TTV is among the
6 most fundamental divestiture objectives and, in this case, is the “primary
7 objective” of the auction advisor for the PSNH divestiture. As described in
8 the Agreement, TTV is the net value realized from a sale after considering all
9 of its cash and non-cash elements. Cash elements include primarily the
10 purchase price for the assets. Non-cash elements may include the transfer of
11 liabilities or requirements (e.g., environmental, decommissioning).
12 Maximizing TTV, through a competitive, well-run divestiture process is a
13 reasonable goal, consistent with divestiture norms.

14 Helping to establish a competitive energy market is also a reasonable
15 objective and consistent with divestiture norms in a market which has been, or
16 is being, restructured. The hallmark of restructuring is the intention of
17 facilitating competition, and in many cases has come with a commitment or a
18 preference for the regulated utilities to exit the generation ownership market.
19 Similarly, providing a market-based determination of, and minimizing,
20 Stranded Costs is also consistent with divestiture norms in a restructured(ing)
21 market and is a reasonable objective, consistent with the objectives of
22 maximizing TTV and helping to establish a competitive energy market.

1 Providing specific protections, in particular to employees and host
2 communities, are also reasonable goals and are consistent with divestiture
3 norms. In most cases, utilities selling generating assets seek to provide
4 protections to employees in the form of continuity of employment, wages, and
5 benefits for a period of time. Similarly, most utilities likewise seek to provide
6 some protections to local communities. Please see the testimonies of Messrs.
7 Quinlan and Smagula for a more detailed discussion of these features of the
8 Agreement.

9 **Q. Does the Agreement provide any guidance regarding the process for**
10 **divesting the Generating Assets?**

11 **A. Yes, it does. The Agreement specifies a number of requirements for the**
12 **design and management of the divestiture process:**

- 13 • **As noted earlier in my testimony, the Commission shall have**
14 **administrative oversight of the auction process;**
- 15 • **Affiliates or subsidiaries of Eversource may not bid in the auction;**
- 16 • **PSNH shall engage an expert consultant regarding the divestiture process,**
17 **and the auction will be conducted by a qualified advisor whose primary**
18 **objective will be to maximize the realized value of the Generating Assets;³**
- 19 • **The auction process is anticipated to consist of an initial non-binding**
20 **phase (“Initial Phase”) and subsequent bidding phases (“Subsequent**
21 **Phases”). In the Initial Phase, interested parties will be given access to the**

³ 2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement, June 10, 2015, pg. 17.

1 data room, invited to ask preliminary questions, and conduct initial due
2 diligence. Following the Initial Phase, a group of the most qualified
3 bidders will be selected and offered the opportunity to participate in any
4 Subsequent Phases; and

- 5 • Any municipalities providing notice to the Commission of their desire to
6 bid on generating assets shall automatically be offered the opportunity to
7 participate beyond the Initial Phase.⁴

8 **Q. Is this process consistent with a “typical” generation asset divestiture**
9 **process?**

10 **A.** Yes, a multi-phase auction process conducted by an expert advisor, with
11 specific rules regarding participation and ultimate oversight/approval by the
12 state regulator is typical of a utility generation asset divestiture process. This
13 is the general approach followed in virtually all of the divestiture processes
14 undertaken in the northeast during the height of industry restructuring. The
15 multi-phase auction approach has been commonly used in many recent
16 auctions.

17 **Q. Approximately how long will the divestiture process contemplated in the**
18 **Agreement take?**

19 **A.** The typical two-stage divestiture process takes approximately three to six
20 months from the commencement of the auction to the negotiation and

⁴ 2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement, June 10, 2015, pg. 18.

- 1 execution of transaction documents. The schedule for the divestiture process
2 is dependent on a number of factors including:
- 3 • Commission approval of the Agreement. To be clear, Commission
4 approval of the Agreement does not mean that the Commission approves
5 the sale of any of PSNH's generating plants, rather it does mean that the
6 Company is authorized to commence the divestiture process.
7 Commission, and other (e.g., FERC) approval of any resulting
8 transaction(s) is still required.
 - 9 • Thorough divestiture preparation in advance of initiating the divestiture
10 process. I discuss the steps that PSNH is taking to prepare for a
11 divestiture, if the Agreement is approved by the Commission, in more
12 detail in Section V of my testimony.
 - 13 • Clear objectives and requirements, including terms of a transaction, for the
14 divestiture process and any resulting transaction(s).
 - 15 • Expert design and management of the divestiture, well-supported by
16 PSNH, the Commission and other key stakeholders.
 - 17 • The reaction of the market to the opportunity presented by the divestiture,
18 including other competing opportunities which may be available in the
19 market.

1 **Q. Does the Agreement also identify any other requirements or**
2 **commitments related to the divestiture or the Generating Assets?**

3 A. Yes. In addition to a number of requirements for the design and management
4 of the divestiture process which I address later in my testimony, the
5 Agreement articulates the following:

- 6 • PSNH will be responsible for prudently operating its Generating Assets
7 until they are sold or transferred to another entity or retired;⁵
- 8 • All purchaser(s) of PSNH's Generating Assets shall be required to keep
9 the plants in service for a minimum of eighteen months following the date
10 of purchase;⁶ and
- 11 • PSNH shall complete its transition to a competitive procurement process
12 for default service.⁷

13 Implicit in the Agreement's objectives and requirements is also maintaining a
14 commitment to safety and system reliability.

15 **Q. What is your view of the requirement that PSNH continue to prudently**
16 **operate its Generating Assets?**

17 A. Prudently operating the plants in accordance with good utility practice is
18 critical to maintaining their value for customers today, and in the market
19 during the divestiture process. In fact, this requirement is almost always

⁵ 2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement, June 10, 2015, pg. 22.

⁶ 2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement, June 10, 2015, pg. 17.

⁷ 2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement, June 10, 2015, pg. 3.

1 included in the Asset Sale Agreement specifying the contractual commitments
2 of the seller and the buyer in the sale of generating assets. Consistent with
3 this commitment, PSNH will continue to invest in O&M in the Generating
4 Plants on behalf of its customers until ownership is transferred to a buyer(s) or
5 the plant(s) are decommissioned, as discussed in the testimony of Mr.
6 Smagula.

7 **Q. What is your view of the requirement that all purchaser(s) of the**
8 **Generating Plants keep them in service for a minimum of eighteen**
9 **months following the date of purchase?**

10 A. It is my understanding that this requirement represents a compromise of the
11 signatories to the Agreement. I believe that a requirement to continue to keep
12 the plants in service for a minimum of eighteen months is a reasonable
13 requirement and represents a fair commitment to employees and the market.
14 As I noted earlier, the Agreement provides certain employee protections as
15 required by New Hampshire law, in particular maintaining the commitments
16 and protections offered under the collective bargaining agreement (“CBA”)
17 and offering similar protections to non-represented employees, management,
18 and officers.⁸ The eighteen month continued operation commitment
19 complements and supports these important employee commitments.

⁸ See Appendix B of the Settlement: *PSNH d/b/a as Eversource Energy, NH (hereinafter referred to as “Eversource NH”) and IBEW, Local 1837 agree to extend the existing collective-bargaining agreement (CBA) for a period of two (2) two years following the divestiture by PSNH of any generating facility currently owned by Eversource NH to another entity or upon the shut-down of any generating facility currently owned by Eversource NH.*

1 The eighteen month continued operation requirement is also a reasonable
2 commitment to the market. These plants serve a role in supporting system
3 reliability. Their continued operation for a minimum of eighteen months,
4 coupled with specific plans regarding their operation or decommissioning
5 thereafter, will allow important time for planning. These plants also have
6 value in New England's Forward Capacity Market ("FCM"). ISO New
7 England runs an annual auction for future capacity three years in advance of
8 the operating period. For example, the last auction concluded in February
9 2015 and identified capacity resources for 2018-2019. As a result, 20 of the
10 individual units at the Generating Plants are committed through 2019 and will
11 generate capacity revenues. If any of these plants withdraw from the market
12 before 2019, they will be subject to penalties.

13 The Agreement requires PSNH to continue to bid its generating assets into the
14 ISO-NE forward capacity markets in order to preserve the value of those
15 assets. I find this provision of the Agreement to be reasonable and necessary
16 to accomplish the goal of maximizing sale TTV.

17 Placing requirements like these on bidders in an auction can have purchase
18 price implications. The bidders will include their assessment of the value or
19 cost of these requirements in their proposals. Maximizing the TTV, however,
20 allows PSNH and the Commission to consider that in the administration of the
21 auction and the evaluation of proposals.

1 **Q. What is your view of the requirement that PSNH complete its transition**
2 **to a competitive procurement process for default service? How does this**
3 **requirement relate to the divestiture of PSNH's Generating Plants?**

4 A. I believe that this is a very important objective of the Agreement that will
5 create meaningful benefits for customers. Currently, PSNH is using its
6 Generating Assets to backstop its default service requirements. Default
7 service demand has experienced significant swings. Within the most current
8 12 months swings have ranged between 45 percent and 63 percent. Divesting
9 the Generating Assets and relying on short term contracts to supply default
10 service will be much more effective and efficient. The competitive
11 procurement of six-month supply contracts to provide default service will
12 allow PSNH to better match its default service supply with its current needs.
13 Completing the transition to a competitive procurement process for default
14 service also supports establishing a competitive energy market. Divesting the
15 Generating Assets now is critical to this transition being successful.

16 **Q. Are there other things which may be appropriately required of any**
17 **buyer(s) of PSNH's Generating Assets?**

18 A. As I discuss in more detail in Section V of my testimony, PSNH is preparing
19 for the divestiture including developing the specific process, schedule, and
20 various materials, including draft transaction terms, which will support the
21 divestiture after a final decision is issued by the Commission approving the
22 settlement set forth in the Agreement. Part of this preparation will include
23 identifying other things which may be appropriately required of any buyer(s),

1 or which may be desired or encouraged by PSNH and the Commission to
2 achieve the divestiture's objectives including maximizing TTV.

3 **Q. Are the divestiture commitments and objectives in the Agreement**
4 **consistent with other divestitures?**

5 A. As I discussed above, the divestiture commitments and objectives are
6 reasonable and consistent with other divestitures of utility generating assets in
7 restructured(ing) markets. The key to satisfying the divestiture commitments
8 and achieving its objectives here is the design and management of the
9 divestiture process.

10 First, the Agreement itself, once approved by the Commission, is a key factor.
11 Clear regulatory requirements and stakeholder support help define critical
12 elements of the transaction and the environment within which an ultimate
13 buyer will operate. The clarity offered by the Agreement significantly reduces
14 regulatory risk and uncertainty. Absent this clarity, these risks and
15 uncertainties would impact the divestiture by potentially limiting participation
16 and reducing the price due to a risk discount.

17 The divestiture's key objective – maximizing TTV – will best be facilitated by
18 developing and executing a divestiture which includes:

- 19 • An open, competitive process where all eligible parties are afforded an
20 equal opportunity to participate, and a level playing field upon which to
21 compete. To be clear, this is a competitive auction process not a more
22 traditional Request for Proposals. Bidders must be afforded confidential
23 treatment and know that the competitive advantage they bring to the table

1 will not be shared with other bidders. As discussed in more detail below,
2 the process must be clear but also flexible. Negotiation of the final
3 proposal(s) will be necessary to execute transaction documents which best
4 satisfy the divestiture's objectives.

- 5 • High-quality due diligence materials and processes which allow bidders to
6 evaluate the assets and put forth their best proposals, minimizing discounts
7 for risks/uncertainties. As discussed in Section IV, this includes an
8 offering memorandum, technical support papers, document room, process
9 for bidders to ask and have answered questions, the opportunity for site
10 tours and meetings with management, term sheets and ultimately
11 transaction documents.
- 12 • Clear objectives and requirements. Again the Agreement itself is
13 important in this regard. Its requirements (e.g., employee protections,
14 keeping the plants in service for a minimum of eighteen months) are clear,
15 as are its objectives. To the extent other required or desired terms are
16 identified, they should be equally clear and supported. The terms of the
17 transaction will drive its TTV.
- 18 • At the same time, being flexible and responsive to the market. In order to
19 maximize competition and TTV, the market should be allowed and
20 encouraged to be creative and bring their best proposals to the table which
21 may include bids for single or small groups of assets, and other terms and
22 conditions.

- 1 • An ability to expeditiously review final bids received and determine
2 whether to approve the divestiture of the assets. Any delays in that
3 review/approval process extending the time between when bids are due
4 and the ultimate closing on the transaction(s) creates risks that bidders will
5 accommodate via downward adjustments in their bid prices.
- 6 • The engagement of PSNH’s workforce, in particular, the workforce at the
7 Generating Plants. An engaged workforce is very important to the
8 effectiveness of the due diligence process and demonstrating the value of
9 the Generating Plants as a going concern.

10 These are the factors that are being reflected in the work PSNH is doing to
11 prepare for the divestiture which I discuss in more detail in Section V of my
12 testimony.

13 **Q. Regardless of these actions, is there the potential for a “failed auction”?**

14 A. The Agreement defines a failed auction as an asset “that results, after
15 Commission determination, in some or all of the generation assets listed in
16 Section IV.C herein not being sold.”⁹ It is possible that an acceptable
17 proposal for an asset may not be received and, as a result, the asset will not be
18 sold. It is important to note that while commencing the divestiture process is
19 required by the Agreement, and, if the Agreement is approved, supported by
20 the Commission, it is not a “sell at all costs/any price” proposition. I discuss
21 the market for generating assets like PSNH’s in Section V of my testimony.

⁹ 2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement, June 10, 2015, pg. 5.

1 The Agreement provides processes following a “failed auction” including a
2 second divestiture auction or retirement.¹⁰

3 **Q. Does the commitment to commence the divestiture process serve an**
4 **important role in the Agreement overall?**

5 A. Yes, the divestiture commitment is a key component of the Agreement. It is
6 critical to the achievement of the Agreement’s overall objectives, which
7 include:

- 8 • Protecting the economic interests of PSNH’s electricity customers;
- 9 • Avoiding protracted litigation in the Commission proceedings for both the
10 Merrimack Station Scrubber and the investigation into PSNH’s owned
11 generation fleet;
- 12 • Resolving long-standing issues regarding the restructuring of New
13 Hampshire’s electricity market;
- 14 • Taking advantage of a historically low-cost financing environment; and
- 15 • Ensuring adequate and meaningful protections for both New Hampshire’s
16 labor force and for impacted municipalities.

17 The divestiture is a key means of protecting the economic interests of PSNH’s
18 electricity customers. A competitive, well-run divestiture will maximize
19 TTV, thus mitigating Stranded Costs. Divesting PSNH’s Generating Assets,
20 coupled with the Agreement’s requirement regarding a competitive
21 procurement process for default energy service, will finalize the establishment

¹⁰ 2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement, June 10, 2015, pg. 22.

1 of a competitive energy market and help resolve issues regarding restructuring
2 New Hampshire's electricity market. The divestiture objectives and
3 commitments also provide meaningful protections for New Hampshire's labor
4 force that are supported by organized labor and impacted municipalities. The
5 divestiture is a key component of the Agreement.

6 **Non-Advocate Staff Response to Motion of Settling Parties and the Divestiture**
7 **Process and Schedule Implicit in the Agreement**

8 **Q. Are you familiar with Non-Advocate Staff's Response to the Settling**
9 **Parties' Joint Motion for Expedited Approval of Settlement Agreement**
10 **and Rate Adjustments as it pertains to the divestiture of PSNH's**
11 **generating assets.**

12 A. Yes. It is my understanding that Non-Advocate Staff's June 17th letter
13 response addresses four points related to the Agreement's divestiture
14 commitments:

15 1. The near-term completion of an independent consultant's environmental
16 assessment of PSNH's physical generation assets;

17 2. The near-term completion of a consultant's general economic assessment
18 of the potential impacts of the sale of PSNH's generating assets on the
19 economy in PSNH's service territory;

20 3. A conditional auction of PSNH's generation fleet well in advance of the
21 Commission's decision on the Agreement; and

22 4. The overarching objective of an expeditious schedule.

1 **Q. What is your reaction to Non-Advocate Staff's recommendation**
2 **regarding the completion of an environmental assessment?**

3 **A.** I agree with Non-Advocate Staff that completing an independent
4 environmental assessment of PSNH's Generating Assets prior to commencing
5 the divestiture process is necessary, however this assessment is best
6 commissioned by PSNH. As I discussed in Section III and will discuss more
7 in Section V of my testimony, a key factor in the success of a divestiture
8 process is thorough preparation and minimizing uncertainties/unknowns.
9 Completing and making available a third-party environmental assessment will
10 make important information available to bidders. As discussed in more detail
11 by Mr. Smagula, PSNH has already commenced the process to hire a qualified
12 third-party consultant to conduct a phase 1 ASTM environmental assessment
13 and produce a report by December 2015. It is my understanding that this is
14 the same assessment and timeframe recommended by Non-Advocate Staff. In
15 my opinion, there is no need for a separate or additional environmental
16 assessment in order for the Commission to reach an informed conclusion on
17 whether it is in the public interest to approve the Agreement. The results of
18 the environmental assessment, and its impact on the TTV for the generating
19 assets, can be further considered when the auction results are brought back to
20 the Commission for approval.

1 **Q. What is your reaction to Non-Advocate Staff's recommendation**
2 **regarding the completion of a general economic assessment of the**
3 **potential impacts of the sale of PSNH's Generating Assets on the**
4 **economy in PSNH's service territory?**

5 A. As discussed in Mr. Frantz's testimony, the Company, with the agreement of
6 the Settling Parties, retained Regional Economic Models, Inc. ("REMI") to
7 complete this economic assessment. The Company welcomes Non-Advocate
8 Staff's, and other parties', review of this assessment, and expects to make use
9 of the model, and its inputs and outputs, available to all of the parties in this
10 proceeding. In my opinion, this obviates the need for Non-Advocate Staff to
11 hire its own economic modeler to make this assessment. I would like to point
12 out that Non-Advocate Staff could not have known that the Company was
13 planning to put forth this assessment prior to the filing of its response to the
14 Motion.

15 **Q. What is your reaction to Non-Advocate Staff's recommendation**
16 **regarding the completion of a condition auction of PSNH's Generating**
17 **Assets prior to the Commission's decision regarding the Agreement?**

18 A. I want to be clear that Commission approval of the Agreement simply means,
19 as it pertains to divestiture, that the Commission approves PSNH conducting a
20 divestiture process. It does not mean that the Commission approves any
21 specific sale of PSNH's generating assets. This is a very important
22 distinction. Any transaction which may result from the divestiture process
23 contemplated in the Agreement would be subject to Commission approval at a

1 later date. Accordingly, in my view, the price discovery sought by the
2 conditional auction is not necessary in order for the Commission to make an
3 informed decision as to whether the Agreement is in the public interest.

4 **Q. Please describe in more detail your understanding of the conditional**
5 **auction recommended by Non-Advocate Staff.**

6 **A.** As I understand it, the conditional auction is akin to the Initial Phase of the
7 auction specified in the Agreement. In the Initial Phase of a typical divestiture
8 process, bidders participate in preliminary due diligence and provide non-
9 binding indicative bids. I believe that is what Non-Advocate Staff intends the
10 conditional auction to be. Where the Non-Advocate Staff's conditional
11 auction differs from the Settling Parties' Initial Phase is in its timing and the
12 use of the information it delivers. As I understand Non-Advocate Staff's
13 recommendation, the conditional auction would be conducted over a three-day
14 period prior to any order from the Commission approving the Agreement (and
15 the divestiture process) and its results would be used to inform the
16 Commission's consideration of the Agreement.

17 In contrast, the typical Initial Phase of a divestiture is conducted over a four to
18 six week period after detailed auction preparation has been conducted by the
19 potential seller and interested parties are identified and provided with access
20 to both preliminary marketing and due diligence materials. Based upon this
21 information, interested parties perform their assessment and valuation of the
22 assets and submit their non-binding bids. The primary purpose of non-binding
23 indicative bids is to help distinguish the groups that are interested in

1 purchasing the assets from those that just may be looking for information. A
2 short list of bidders is then provided with the opportunity to conduct much
3 more detailed due diligence, including site tours, which is a very intense
4 process that is best made available only to the most interested parties. In my
5 experience, non-binding indicative bids can bear very little resemblance to the
6 final binding bids provided after detailed due diligence in the Subsequent
7 Phase and as a result provide limited price discovery, which is my
8 understanding of Non-Advocate Staff's primary interest in conditional bids.
9 Under these circumstances, where the Commission will not have approved the
10 Agreement, or even the commencement of a real divestiture process, the
11 information that could be gleaned from a conditional auction would be
12 extraordinarily unreliable, and would likely adversely affected by the tactical
13 interests of the few bidders that may choose to participate.

14 **Q. Do you have any other concerns about the conditional auction as you**
15 **understand it?**

16 **A.** Yes, I am also concerned that the conditional auction would damage the
17 success of any subsequent auction. There are, or will be, a number of assets,
18 similar to PSNH's fossil assets in particular, available in the marketplace. If a
19 divestiture process is initiated, PSNH's Generating Assets will be competing
20 with these other assets. Parties interested in acquiring assets like these will
21 devote their time and resources to the transaction processes that they believe
22 have the highest likelihood of success. The lack of Commission approval of a
23 divestiture process indicates that there is no commitment to the divestiture

1 process, creating uncertainty in the market, and likely affecting the market's
2 interest in and response to the assets. Non-binding, preliminary bids well in
3 advance of an actual sales process are unlikely to reflect the true value of the
4 assets.

5 In addition, the timing between receiving the conditional auction results and
6 commencing a Subsequent Phase, assuming the Agreement is approved, could
7 be as much as six months or more (conditional auction in November, hearings
8 three months later in February, followed by a Commission order which could
9 presumably take up to three months). That would be an unprecedented and
10 potentially unmanageable lag between an indicative bid phase and a binding
11 bid phase. A lot can change during that time making the information
12 ascertained from a conditional auction even less reliable. Changes could
13 include: 1) energy market changes; 2) new assets for sale that may not have
14 the regulatory risk that exists for PSNH's Generating Assets without approval
15 of the Agreement; 3) interest rates could increase changing the financial
16 position of the bidders; and 4) operational experience of the generating assets
17 during the 2015-2016 winter period. It is unlikely that the bidders who
18 participated in the conditional auction would participate in the same way, if at
19 all, in any subsequent auction.

20 For all of these reasons, I see no benefit in, but substantial risk being created
21 by, the proposed conditional auction. Such a process would be completely
22 unprecedented in U.S. generation divestiture processes, and materially delay
23 the achievement of a successful divestiture. I do not believe that Non-

1 Advocate Staff intended such a result, and it is my expectation that the
2 Commission can obtain all of the information it needs to fairly evaluate the
3 Agreement without the need to resort to such an unprecedented step, knowing
4 that the auction results will have to come back to the Commission for further
5 consideration.

6 **Q. If the Agreement is approved by the Commission as proposed, when do**
7 **you anticipate the auction process will conclude?**

8 A. If the Commission approves the Agreement in December, I anticipate that
9 binding bids, the final step in the Subsequent Phase, will be submitted in the
10 second quarter of 2016. The timing of the next steps in the auction will be
11 dependent upon the results of the divestiture process. Assuming one or more
12 transactions is presented to the Commission for its approval, the sale of those
13 assets could be concluded in or before the fourth quarter of 2016. These
14 timeframes are consistent with U.S. industry norms for generation
15 divestitures.

16 **Q. Please describe in more detail the typical two-stage generation divestiture**
17 **process and schedule and how that compares with the process and**
18 **schedule you anticipate for PSNH's assets.**

19 A. A typical generation divestiture process is comprised of the following stages:
20 1) auction preparation; 2) Initial Phase - preliminary due diligence and
21 indicative bids; 3) Subsequent Phase 2 - detailed due diligence and binding
22 bids; 4) Phase 3 – bid evaluation; and 5) Phase 4 - negotiations and bidder

1 selection. Following the selection of the winning bidder(s) and the execution
2 of definitive transaction documents, regulatory approvals are sought and when
3 received the closing and transfer of ownership occurs. This is the process that
4 the Agreement anticipates

5 **Q. What does the preparation phase of a generation asset divestiture auction**
6 **process encompass and what is its typical timeline?**

7 A. The auction preparation phase of the divestiture allows the seller time to
8 prepare marketing and due diligence materials and processes, and to initiate
9 technical and other ongoing divestiture efforts that are necessary during the
10 Initial Phase and Subsequent Phase 2 of the auction process. As discussed in
11 more detail in Section V of my testimony, PSNH has begun work on this
12 phase of the divestiture. Given the importance of this work, the breadth of
13 issues to be addressed, and the objective of “expeditiously” pursuing the
14 divestiture, PSNH must begin its auction preparation work now to be prepared
15 to move forward quickly, efficiently, and effectively with the divestiture
16 following the Commission’s approval of the Agreement.

17 **Q. Please describe what the Preliminary Due Diligence and Indicative Bids,**
18 **phase of the auction entails.**

19 A. This Initial Phase typically begins with the issuance of the preliminary
20 marketing materials to the contacts provided in the marketing database and the
21 distribution of the auction press release to the mainstream press as well as to
22 targeted energy industry publications.

- 1 The marketing and due diligence materials typically include the following:
- 2 • Document room(s) housing the extensive due diligence documentation
3 which will be necessary for bidders to conduct due diligence (e.g.,
4 operational, financial, environmental, employee-related, contracts). The
5 document room may be provided in two parts – an Initial Phase document
6 room and a more extensive Phase 2 document room. The document room
7 will be electronic, using a secure website. A legal review of all documents
8 will be conducted before they are included in the relevant document room;
 - 9 • Preliminary marketing includes development of an early interest letter
10 (“EIL”) and confidentiality agreement (“CA”) to send to potential bidders
11 that provides a brief description of the assets being divested and the
12 auction process;
 - 13 • A “marketing list” of parties to whom the preliminary marketing materials
14 will be sent and a press release to be widely distributed to solicit interest
15 from any other parties;
 - 16 • An Offering Memorandum (“OM”) which describes each asset in detail
17 and includes a term sheet for which bidders can begin evaluating the
18 required or desired terms of the transaction and more detail regarding the
19 auction process;
 - 20 • A process for receiving and responding to bidder questions which includes
21 a Q&A database to house, organize, and process bidders’ questions. Like
22 the document room, this process may be different for the Initial Phase and
23 Phase 2; typically, the responses developed for questions asked during the

1 Initial Phase are provided to all the Initial Phase bidders, while responses
2 generated by questions asked during Phase 2 are provided only to the
3 specific bidder that asked the question; and

- 4 • Begin development of other due diligence processes specific to Phase 2
5 including site tours and meetings with management.

6 Once the preliminary marketing materials are issued, the auction manager
7 begins soliciting interest in the generating assets by contacting all of the
8 entities in the marketing database and fielding contacts from entities that
9 became aware of the auction through the press. Negotiating CAs with bidders
10 and providing access to the OM and the Initial Phase document room and
11 Q&A process is done on a rolling basis throughout the Initial Phase.
12 Typically, during the Initial Phase, bidders are allowed to ask questions, and
13 the answers are provided to all bidders.

14 Indicative bid instructions are sent to all bidders that executed a CA
15 identifying the information which must be provided in an indicative bid for
16 the plant(s) and the process and timing for submitting indicative bid(s). These
17 instructions generally require, among other things, the following information
18 from bidders: 1) structure and qualifications of the bidding entity; 2) an
19 indicative purchase price (i.e., a non-binding indication of price subject to
20 additional due diligence); 3) the assets that are included in the bid; and 4) the
21 bidders general ability to adhere to the terms of sale and any comments on
22 those terms of sale.

1 The Initial Phase indicative bids are then evaluated, and a short list of the
2 highest value bids/bidders is established. In the case of the PSNH divestiture,
3 this process will include the auction manager, PSNH, and the Commission.
4 The schedule for a typical Initial Phase process can range from four to six
5 weeks.

6 **Q. How is the next stage of the auction, Subsequent Phase 2-Detailed Due**
7 **Diligence and Binding Bids, typically structured?**

8 **A.** Phase 2 commences with a letter inviting certain of the Initial Phase bidders to
9 engage in detailed due diligence and submit a binding bid for the generation
10 assets. During this phase, bidders may ask detailed questions about each of
11 the assets that they wish to purchase. The seller and the auction manager must
12 work together to provide timely answers to all of the bidders' questions.
13 Typically, during Phase 2, bidders are offered site tours of the plants and a
14 separate meeting with the company's management team to discuss terms of
15 sale and other relevant topics. In addition, during this phase the seller's
16 advisors and attorneys develop transaction documents that will be provided to
17 bidders several weeks before binding bids are due. Transaction documents
18 include a purchase and sale agreement, interconnection agreement, easement
19 agreements as appropriate, and in some cases, a transition services agreement
20 and power purchase agreement. At the end of Phase 2, a final bid instruction
21 letter is sent to the bidders requesting final binding bids and any modifications
22 requested to the transaction documents.

1 The timeline for this process varies based upon the number of plants and
2 complexity of the anticipated due diligence, but, in general, takes
3 approximately eight weeks.

4 **Q. How does the next phase of the auction process unfold?**

5 A. Once the auction manager has received all final binding bids, it begins, in
6 collaboration with the seller and in the case of PSNH the Commission, an
7 evaluation process which may include calling the bidders with clarifying
8 questions. This timeline for this process is heavily influenced by the
9 complexity of the proposals received, but, in general, takes approximately two
10 weeks.

11 **Q. What happens in Phase 4 of the auction process?**

12 A. As soon as practicable following the preliminary review of bids, negotiations
13 with the lead bidder(s) begin. Negotiations surrounding both purchase price
14 and transaction terms are included in the TTV determination. Phase 4
15 concludes when a purchase and sale agreement is executed with one or more
16 bidder(s). Again, the timeline for this process is dependent on the specifics of
17 the negotiations, but, in general, takes approximately two to three weeks.

18 **Q. What is the final step in the auction process?**

19 A. All regulatory approvals, including federal and state approvals will be
20 requested by both the buyer and the seller in the final stage of the auction
21 process. As I noted earlier, this is the point at which the Commission renders
22 its decision regarding the actual sale, or divestiture, of any of the Generating

1 Assets. Once those approvals are gained, and all necessary pre-closing
2 transition activities have concluded, the generating asset(s) closing(s) can
3 occur. Like the preceding steps, the timing of regulatory approvals can vary
4 based upon the specific circumstances, but is generally driven by the time
5 necessary to secure state Commission decisions. Given the desire of the
6 Settling Parties and Non-Advocate Staff for an expeditious schedule I would
7 expect that the regulatory approval process could take as little as four months
8 and would not exceed six months.

9 **Q. Do you believe that the typical divestiture process contemplated by the**
10 **Agreement will satisfy Non-Advocate Staff's overarching objective of an**
11 **expeditious schedule?**

12 **A. Yes I do. It is my view that the procedural schedule as proposed by the**
13 **Settling Parties and the divestiture process schedule implicit in the Agreement**
14 **provides adequate time for (1) parties to review the Agreement, (2) PSNH to**
15 **prepare for the divestiture process, (3) the Commission to rule on the**
16 **Agreement, and (4) if the Agreement is approved by the Commission, the**
17 **divestiture process to be conducted as successfully as possible.**

18 **In contrast, it is my view that the Non-Advocate Staff's proposed divestiture**
19 **process introduces unprecedented risks and uncertainties, creating a high**
20 **likelihood of negatively impacting the ability to successfully divest the**
21 **generating assets at the maximum value.**

1 **PSNH's Near Term Divestiture Planning Activities**

2 **Q. You noted earlier in your testimony that PSNH has started planning for**
3 **the divestiture of its Generating Plants. Please expand.**

4 A. PSNH is aware that the auction itself cannot begin until there is regulatory
5 approval for the Agreement, but as noted above, PSNH has begun work on the
6 auction preparation phase of the divestiture. This is very appropriate as the
7 preparation phase of the process could take a significant amount of time
8 considering the size of PSNH's generating fleet and the effort that is needed to
9 effectively pull together all of the materials necessary for a successful auction.

10 **Q. Please describe the technical and other ongoing programs which will be**
11 **initiated during the auction preparation phase of the divestiture process.**

12 A. PSNH's Generating Assets have been part of an integrated utility operation
13 for a very long time. In order to successfully offer the Generating Assets in a
14 way that maximizes value for ratepayers, numerous technical issues must be
15 resolved prior to the auction process. Clarity around these points for bidders
16 at the commencement of the Initial Phase of an auction is very important to
17 minimize uncertainty and mitigate risks.

- 1 • Asset Boundaries – identifying all of the assets that will be included in, or
2 excluded from, the sale. This includes consideration of real estate
3 (including any needs for surveys), easements, licenses, hardware, spares,
4 etc.;
- 5 • Interconnection – establishing a formal agreement governing the new
6 owner’s access to transmission facilities necessary for them to operate the
7 plant(s) they acquire;
- 8 • Workforce Considerations – in addition to the collective bargaining
9 agreement (“CBA”) itself, thoroughly evaluating all employees’
10 (collective bargaining and non-represented), compensation, health and
11 welfare benefits, retirement programs, and other considerations so as to
12 provide thorough due diligence materials and specify the full spectrum of
13 rights and obligations under the CBA, pension assets, hiring obligations,
14 etc. of the buyer, and related matters. In addition, establishing clear and
15 open communication with the affected workforce and engaging them in
16 the auction process is an important part of the work done around
17 workforce considerations;
- 18 • Property Taxes – assessing property tax;
- 19 • Environmental – as discussed above, conducting ASTM Phase 1
20 environmental site assessments at each generating site, determination of
21 whether Phase 2 environmental assessments will be conducted, and a

1 review of any known environmental liabilities at the plants, all to be
2 considered in developing terms of sale;¹¹

- 3 • Stakeholder Communications – establishing stakeholder communications
4 processes to keep key stakeholders appropriate informed; and
5 • Commission Administration – in the case of the divestiture of the PSNH
6 Generating Assets, establishing the process and protocols to facilitate the
7 Commission’s administration of the auction and ultimate regulatory
8 review of its results.

9 **Q. Please describe the steps PSNH has taken to prepare for the divestiture**
10 **process.**

11 A. PSNH has established the following functional teams to address the issues
12 identified above: 1) Leadership; 2) Legal; 3) Regulatory; 4) Terms of Sale and
13 Sale Process; 5) Documentaiton; 6) Technical, including; 7) Communications;
14 8) Human Resources; and 9) Environmental.

15 **Q. Please describe the Leadership Team and its role.**

16 A. The Leadership team is managed by the divestiture project manager with
17 assistance from the Vice President of Generation. That team reports monthly
18 to the Executive Committee, which consists of Eversource’s top management.
19 That same group, along with the Regulatory Team will communicate the

¹¹ An ASTM Environmental Phase 1 is a standard practice for identifying recognized environmental conditions at an industrial real estate property. The report is performed by an environmental professional and includes a site inspection; interviews with owners, occupants, environmental agencies and neighboring properties; review of environmental databases; analysis of local geologic conditions; and review of historical records for the subject property. The purpose of the report is to determine if there are any known or potential significant environmental liabilities at the property.

1 project's status with the Commission staff on a bi-monthly basis. The role of
2 this team is to keep the project organized and on course to begin the Initial
3 Phase of the divestiture by early 2016. This milestone is extremely important
4 to the success of the divestiture as the coal units mostly likely will not be on-
5 line past the winter months. Interested bidders will want to tour and inspect
6 the Generating Plants when they are operating. Since the Initial Phase of the
7 divestiture could take four to six weeks, it is imperative to have the Phase 2
8 bidders identified and scheduled to tour the Generating Plants by mid-
9 February.

10 **Q. Please discuss the Legal Team's responsibilities throughout the pre-**
11 **auction phase.**

12 A. The Legal Team will consist of Eversource's internal and external counsel and
13 subject matter experts. This team has a significant amount of work to do
14 during the pre-auction phase. Some of those responsibilities include: 1)
15 drafting confidentiality and non-disclosure agreements; 2) drafting the asset
16 purchase agreement; 3) drafting the interconnection agreements; 3) preparing
17 filings necessary to obtain necessary regulatory approvals; and 4) reviewing
18 all contracts and documentation for each site included in the sale process.

19 **Q. Please explain the Regulatory group's responsibilities throughout the**
20 **auction preparation.**

21 A. Throughout the entire auction process, the Regulatory team, along with the
22 Leadership Team will work with the Commission to ensure that all parties'

1 goals and objectives are aligned. Currently, the Regulatory team is
2 establishing the process and protocols to facilitate PSNH and the
3 Commission's administration of the auction and ultimate regulatory review of
4 its results

5 **Q. How has the Terms of Sale team begun their auction preparations?**

6 A. The Terms of Sale team has begun by considering the actions needed to
7 address the following Settlement terms:

- 8 • The current PSNH CBA will be in effect for two years following closing
9 of the sale of the Generating Plants;
- 10 • PSNH will support the buyer's efforts to seek Exempt Wholesale
11 Generator status from the Commission and/or FERC; and
- 12 • PSNH will make property tax stabilization payments over a period of three
13 tax years following divestiture to the municipalities to the extent that the
14 purchase price of the asset is less than the municipality's imputed fair
15 market value.¹²

16 In addition, the Terms of Sale team, working in tandem with some of the
17 Technical teams, has begun reviewing other terms of sale issues. Some of
18 those issues include, 1) identifying which assets at each of the Generating
19 Plants will be sold and which will be retained, 2) the approach to workforce
20 terms, including possible retention bonus' and post-employment benefit
21 issues, 3) the disposition of environmental liabilities, 4) specific

¹² 2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement, June 10, 2015, pgs. 22-23.

1 representations and warranties, including material adverse effects, provided by
2 both the seller and the buyer, 5) any specific closing conditions, 6) timing and
3 procedures for any transition services necessary after the closing; 7) review of
4 property tax issues; and 8) a review of possible asset bundling. Finally, this
5 group will take the lead in development of the OM. For the divestiture to
6 meet its goal of touring bidders through the Generating Plants in February,
7 2016, the OM and any other materials that bidders will review in the Initial
8 Phase must be completed during the pre-auction phase. Once the EIL is sent
9 to bidders and confidentiality agreements are executed, bidders will expect to
10 begin their due diligence in earnest.

11 **Q. Please describe activities the Documentation and Due Diligence team will**
12 **undertake during the auction preparation phase.**

13 A. The Documentation and Due Diligence team has begun identifying and
14 assembling information which will be necessary for bidders to conduct their
15 due diligence throughout both the Initial Phase and Phase 2 of the auction.
16 This information set is expected to include hundreds of documents. The team
17 will organize all of the due diligence documents so they will be ready to
18 transfer to the electronic document room for the Initial Phase. The
19 documentation team will also develop the Q&A process, site tour and
20 management meeting processes, and support materials.

1 **Q. What are the Technical Team's near-term efforts and its responsibilities**
2 **throughout the auction preparation?**

3 A. As noted above, technical issues like Human Resources, Environmental and
4 Communications, both internal and external to PSNH, should be evaluated
5 and addressed before the auction process begins in order to provide clarity
6 around these points for bidders. Sub-working groups addressing the issues
7 noted above have been identified, and the establishment of processes,
8 timelines, and tasks for each team is in progress.

9 **Q. Why is it important to begin preparing for the auction at this time?**

10 A. Planning and developing the materials necessary to go to market as soon as
11 possible is important for a successful auction. An expeditious auction of the
12 PSNH assets will provide the best market result. In addition, the ability for
13 bidders to visit the coal plants while they are still operating (by the end of
14 March, 2016) is important. Moreover, the extra work for employees in
15 preparing the plants for a sale, while performing their everyday work creates
16 additional pressure. Moving the process forward by proactively planning and
17 developing the materials necessary to go to market as soon as the Agreement
18 is approved is important not only for employees but also for customers
19 through a successful auction. An expeditious auction of the PSNH assets will
20 provide the best market result.

21 **Q. Does this conclude your Testimony?**

22 A. Yes, it does.