

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 14-238

Determination Regarding PSNH's Generation Assets

DE 11-250

Investigation of Scrubber Costs and Cost Recovery

DE 09-035

Distribution Service Rate Case

Petition for Intervention of Terry Cronin

Terry Cronin, 643 Briar Hill Road, Hopkinton, NH 03229 respectfully petitions to intervene in the captioned case.

Standing

Petitioner is now and has been a residential rate payer of Public Service Company of New Hampshire (Eversource Energy) since February, 1994.

Statement of Position

The "**2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement**", (Agreement) *is not in the public interest.*

This intervention will not impair the interests of justice and nor the prompt conduct of the proceedings.

1. As a Public Service Company of New Hampshire d/b/a Eversource Energy ("PSNH") default service rate payer, I object to this settlement agreement because it came out of private senate negotiations in which only select parties were allowed to take part. At the House Science, Technology and Energy Committee hearing on SB 221, April 28, 2015, William Quinlan, president of Eversource Energy, told the committee that the meetings were held in secret in the interest of the company's investors and employees.

Utility divestiture and rate adjustments in the context of exclusionary political negotiations designed around investor owned utility interests oppose the public interest on face.

2. In their Joint Motion for Expedited Approval of Settlement Agreement and Rate Adjustments submitted on June 10, 2015, by Robert A. Bersak, Chief Regulatory Counsel, Eversource Energy, the settling parties' background and procedural history left out important points so that their narrative reads as PSNH folklore. Though the second paragraph mentions that the state passed HB 489 (Laws 2001, Ch. 29) to prohibit PSNH divestiture in 2001 in view of the market volatility in the California electricity restructuring, it omits that the company was still on schedule to divest its generation assets in 2004. Instead, the narrative goes on that in 2003 the state passed SB 170 (Laws 2003, Ch. 21) "...which established after April 30, 2006, PSNH was permitted, but not required, to divest its generating facilities..." But this narrative does not explain how or why this law changed the 2000 PUC settlement agreement with PSNH from requiring divestiture to permitting it.

This politically motivated change in language in SB 170 undermined the 2000 PUC multi-party settlement requiring PSNH to sell off its generating assets. That settlement took more than two years of litigation to get PSNH to agree. Now more than fifteen years later we are confronted with this new political settlement in yet another attempt to get PSNH to divest. But this one comes with the onus of much greater settlement costs than before, and where rate payer interests have been teased out by class, pitting one against another, and rendering the Officer of Consumer Advocate's ("OCA") position in this settlement absurd.

3. Scrubber costs represent the greatest share of the settlement and an unjust burden to the rate payers. But PSNH has used its ability to litigate at rate payer expense in ways that have made it impossible to come to a divestiture solution through the PUC, but that gets the results now before Commission in this political solution that provides for this investor owned utility's interest but with no accounting for its prudence. For any settlement to prove just, reasonable and in the public interest, the PUC must reckon with the problem of this company's rate payer funded litigation.

For example, in the divestiture docket (DE-14-238), but for those few in support of the company, PSNH made incompetent challenges to six parties petitioning to intervene. They objected to their "legal standing." In a waste of time and money, each petitioner had to respond to the company's response and objection to their petitions to intervene in PSNH's effort to intimidate anyone from considering joining in the docket.

But the PUC granted intervention status for everyone saying "Legal standing is not the appropriate standard here."

For another example, in the scrubber costs and recovery docket (DE 11-250), in particular, PSNH used a malicious litigation strategy as a means to confound, delay and contest an airing of the facts regarding the company's prudence. Indeed, at one point in an outrageous legal move, PSNH demanded more than 584 data requests of five interveners with sub-questions requiring a total of well over 1,000 responses. This prompted the OCA to object that "The volume of [PSNH] data requests reach the level of harassment that is intended to overburden the parties and prevent the Commission from reaching the merits of the case."

PSNH followed up with objections to these five parties' objections to their data requests.

As the Commission knows, this last example from the scrubber docket only scratches the surface of company's obdurate litigation throughout it. They continued like this to no good end, making it impossible for the PUC to draw conclusions on the merits of the scrubber case from matters of fact.

4. Without findings of fact about whether the PSNH acted with prudence, the Commission cannot determine that the result of this settlement will prove just, reasonable and in the public interest under Puc 203.20(b). But until this investor owned utility bears its own legal expenses, such a settlement will prove impossible. Moreover, what is clear is that Eversource's rate payer financed litigation is not in the public interest and must come to an immediate end.

5. Further, the Conservation Law Foundation, Inc. filed a civil action in July 2011 against PSNH now before the U.S. District Court, District of New Hampshire. The suit alleges that the company in 2008 and 2009, both prior to and since installing the scrubber on the Merrimack Station, failed to obtain permits for the MK2 plant turbine projects as required under state and federal regulations to comply with the Clean Air Act New Source Review program. Evidence aside, and without findings of liability or not, as a rate payer I object in the strongest possible terms for having to pay for an investor owned utility's legal defense against its alleged violations of federal and state laws designed to protect the public health as well as the environment of the State of New Hampshire on even the most remote chance of an outcome that could harm the public interest.

6. PSNH insisted that the settling parties consider the scrubber cost recovery in a vacuum, warning that to do otherwise would be to commit an illegal constitutional taking. The settling parties needed only to consider PSNH's promise in 2008 to the PUC "...that following the installation of the scrubber, Merrimack Station will continue to be a vital base-load source for reliable and affordable power to our customers...", because since the scrubber installation, PSNH has not delivered on that promise.

The company offered this promise in a cover letter accompanying its September, 2008 update to the PUC on the project a month after the PUC learned by surprise in a Securities and Exchange Commission filing that PSNH's parent, Northeast Utilities, raised its estimate for the project from \$250 million to \$457 million.

7. The settling parties in this joint motion have otherwise ignored PSNH's management failures. The company's management failed to account for federal regulatory trends since the Carter administration on burning coal with regard to the costs to the public health and the environment.

PSNH pretends that the legislature dreamed up the idea for a scrubber project on the Merrimack Station and mandated it on them in 2006 against their will. Though the company did oppose it in the 1990's, following the 2000 PUC multi-party settlement requiring PSNH's divestiture, they were for the scrubber project by 2003 to block the multi-party settlement the company had litigated against for more than two years. Later, the legislature mandated the project at the company's behest.

But any scrubber project absent carbon capture on an end-stage coal burning plant in a post-Katrina 2006 was fraught with foreseeable trouble and is clear evidence that PSNH failed to use ordinary skill in the management of its Merrimack Station plant.

Finally, PSNH also failed to use ordinary management skill to assess the worth of competitive green-house-gas free solar and wind energy sources, especially for their benefit in obviating public health and environmental costs and risks.

Wherefore, Terry Cronin for himself requests that he be authorized to intervene in this docket with the rights and responsibilities of full interveners in accord with Puc 203.17.

Terry Cronin
July 7, 2015

Certificate of Service

Petitioner served notice of the filing of this Petition pursuant to Puc 203.17.

Terry Cronin