

**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 DAN DOLAN AND DANIEL ALLEGRETTI**

**July 17, 2015**

1 **Q. PLEASE STATE YOUR NAME, COMPANY, ADDRESS AND PHONE**

2 A. My name is Dan Dolan. I am President of the New England Power  
3 Generators Association located at 141 Tremont St. 5<sup>th</sup> Floor, Boston,  
4 Massachusetts 02111. My phone number is 617-902-2354.

5 My name is Daniel Allegretti. I work for Exelon Corp. from a location at 1  
6 Essex Drive, Bow, New Hampshire 03304. My phone number is 603-290-  
7 0040.

8 **Q. MR. DOLAN, PLEASE DESCRIBE YOUR EDUCATIONAL**  
9 **BACKGROUND AND PROFESSIONAL EXPERIENCE**

10 A. I hold a bachelor's degree in business management with a concentration  
11 in international business from Goucher College.

12 I have served as President of the New England Power Generators  
13 Association (NEPGA) since the fall of 2011. NEPGA is the trade  
14 association representing 80% of the installed generation capacity in New  
15 England, approximately 25,000 megawatts. As President, I am the  
16 principal spokesperson and oversee all activities for the largest trade  
17 association representing competitive electric generating companies in  
18 New England. Together with NEPGA staff, I represent the membership on  
19 electricity market rules development and expansion of wholesale electric  
20 competition and am a frequent speaker at legislative and regulatory  
21 hearings as well at industry conferences. I am also is a co-chair of the

1 New England Gas/Electric Focus Group examining coordination issues  
2 across the industries.

3 Prior to joining NEPGA, I worked at the Electric Power Supply Association  
4 (EPSA), the national trade association representing competitive power  
5 suppliers, including generators and marketers, departing as Vice  
6 President of Policy Research & Communications where I was responsible  
7 for coordinating research, reports, studies and analysis as well as  
8 directing communications and state advocacy for the organization.

9 I have testified as an expert witness or provided presentations at technical  
10 conferences on competitive procurement, auction design and other  
11 restructured competitive electricity market issues before more than 20  
12 state public utility commissions across the country.

13 **Q. MR. ALLEGRETTI, PLEASE DESCRIBE YOUR EDUCATIONAL**  
14 **BACKGROUND AND YOUR PROFESSIONAL EXPERIENCE.**

15 A. I hold a J.D. from Georgetown University and a B.A. from Colby College.  
16 As a Vice President in Exelon Corp.'s State Government Affairs group, I  
17 am responsible for legislative and regulatory matters across the northeast.  
18 I have over twenty-five years of experience in the electric power industry  
19 and while at Exelon and Constellation I directed a team of internal and  
20 external professionals to shape the development of electricity laws and  
21 regulations in the northeast. At the state and provincial level I have

1 testified as an expert witness before numerous legislative and regulatory  
2 bodies, including this commission. At the federal level, I served as  
3 Constellation's Director of Wholesale Energy Policy and participated in a  
4 variety of proceedings before the Federal Energy Regulatory Commission.  
5 I have also been an active participant in several regional transmission  
6 organizations, particularly in New England where I served two terms as  
7 the elected Chair of the New England Power Pool. Other industry  
8 leadership positions I have occupied include Board seats on the Retail  
9 Energy Supply Association, the New England Power Generators  
10 Association, the Northeast Power Coordinating Council, the Independent  
11 Power Producers of New York, the Northeast Energy and Commerce  
12 Association, the Electric Power Generators Association of Pennsylvania  
13 and the Electricity Markets Investment Group of Ontario, as well as being  
14 a Member Representative on the New York ISO Management Committee  
15 and on the Ontario IMO Markets Advisory Council and being named by  
16 Governor John Baldacci in 2007 to serve on the Maine Energy Council.  
17 Outside Exelon Energy, I have worked as an Independent transmission  
18 project developer and as a practicing attorney.

19 **Q. PLEASE DESCRIBE YOUR ORGANIZATION'S INVOLVEMENT WITH**  
20 **THE DIVESTITURE ISSUE**

1 A. On September 16, 2014 the Commission issued an Order of Notice  
2 opening docket DE14-238 to commence and expedite a proceeding to  
3 determine whether all or some of PSNH's generation assets should be  
4 divested. On September 29, 2014 NEPGA and RESA filed a joint motion  
5 to intervene in DE14-238. That motion described NEPGA and RESA,  
6 their memberships and the reasons why both organizations meet the  
7 statutory and discretionary standards for intervention. On November 6,  
8 2014 the Commission issued an order in which both NEPGA and RESA  
9 were granted full intervention.

10 **A. BRIEF HISTORIC SUMMARY OF POSITION WITH RESPECT TO**  
11 **RESTRUCTURING**

12 In 1996 New Hampshire restructured the electric power industry to move  
13 away from a system of regulated electric monopolies to a system where  
14 competition for customers drives efficiencies, savings and innovation in  
15 the production and sale of electricity. Toward that goal, Unitil and Granite  
16 State Electric Company (now Liberty Utilities) both fully exited the  
17 generation and electricity supply business and became electricity delivery  
18 companies, merely arranging for the provision of default service to their  
19 remaining customers through outsourcing agreements with competitive  
20 generation suppliers.

21 PSNH also started along that same restructuring path and in 2002

1 made substantial progress with the divestiture of its interest in  
2 Seabrook Station. At that time, the Public Utilities Commission noted  
3 that the sale of PSNH generation was not only consistent with the  
4 legislative principles noted above but was also required under the  
5 commitments the company made in its Restructuring Agreement with  
6 the State of New Hampshire. In the Commission's words:

7 *[T]he Restructuring Agreement calls for the*  
8 *public sale of PSNH's entire generation portfolio*  
9 *and contains specific provisions relative to the sale*  
10 *of the NAEC Seabrook interest at public auction.*  
11 *Under the Restructuring Agreement, the overall*  
12 *objective in selling PSNH generation assets or*  
13 *entitlements is "to maximize the net proceeds*  
14 *realized from the sale in order to mitigate Stranded*  
15 *Costs, to provide a market-based determination of*  
16 *Stranded Costs, and to help establish a competitive*  
17 *energy market, while at the same time providing*  
18 *certain employee protections."* *Restructuring*  
19 *Agreement at 39.* NHPUC Order No. 24,050  
20 (September 12, 2002) at 33.

21 Along the way to completing the restructuring of the industry, however,

1 PSNH and the General Court agreed to suspend the divestiture of the  
2 company's remaining generation assets and implemented this  
3 suspension through the passage in 2003 of Senate Bill 170 (RSA 368-  
4 B:3-a). That law requires PSNH to use the generation assets for the  
5 provision of default service to its remaining customers. At that time the  
6 cost of power from those facilities, primarily due to the use of coal,  
7 appeared to be favorable relative to the market in general. Since that  
8 time, however, a great deal has changed. As the Commission noted in  
9 2013:

10 *Subsequent to the implementation of electric industry*  
11 *restructuring in PSNH's service territory in 2001,*  
12 *many changes have taken place in the energy and*  
13 *capacity markets. Most notable is the large decrease*  
14 *in the price of natural gas (NG) since the widespread*  
15 *availability of shale gas. This decrease in NG prices*  
16 *has resulted in a large decrease in wholesale electric*  
17 *prices causing many generators that rely on other*  
18 *fuels (such as Merrimack Station and Schiller Station*  
19 *Units 4 and 6), or use natural gas but are not*  
20 *combined cycle units (such as Newington Station), to*  
21 *run at much lower capacity factors. In addition, laws*

1           *have since been enacted with respect to renewable*  
2           *energy resources, environmental and emissions*  
3           *requirements (see, for example, RSA 362-F and RSA*  
4           *125-0), as well as amendments to RSA 374-F, that*  
5           *have had differing impacts on the costs of owning and*  
6           *operating electric generation facilities in New*  
7           *Hampshire and on PSNH's default service rates.*  
8           *Further, ISO-New England's proposed changes to the*  
9           *forward capacity market will put less value on fuel*  
10           *diversity than in the past and instead will reward*  
11           *generating units strictly based on their performance.*  
12           *Finally, competitive energy service is now available*  
13           *through multiple suppliers to residential, as well and*  
14           *commercial and industrial customers, and the rate at*  
15           *which customers are choosing these alternative*  
16           *suppliers is increasing. Order of Notice, DE 13-020*  
17           *(January 18, 2013) at 3.*

18           We agree with this assessment and note that based on these reasons the  
19           Commission opened an investigation of the subject which led to the  
20           issuance of a staff report on June 7, 2013 ("Staff Report"). That report laid  
21           out compelling economic evidence for the consideration of divestiture of

1 the PSNH fleet. In staff's words "Based on our analysis of the drivers of  
2 electricity prices in the region and the costs, both fixed and variable,  
3 associated with PSNH's generation in the near-term, and our discussions  
4 with stakeholders, Staff does not believe the status quo is a viable option  
5 going forward." Staff Report, at 54. Read as a whole, we believe the Staff  
6 Report points strongly toward divestiture as the most viable solution.

7 The issuance of the Staff Report and the continued examination of the  
8 issue by the Commission led concurrently to the introduction during the  
9 2014 session of House Bill 1602, which was strongly supported by  
10 NEPGA and by RESA and was signed into law on August 1, 2014. The  
11 law specifically directs the Commission to conduct and expedite a  
12 proceeding and authorizes the Commission to order divestiture if it finds it  
13 is in the economic interest of ratepayers to do so. All of which brings us to  
14 the instant proceeding.

15 Throughout the past several years both NEPGA and RESA have been  
16 active participants in the Commission's proceedings to examine the  
17 continued ownership of generation by PSNH. Beginning with Docket DE  
18 10-160 (migration) RESA argued for the need to complete the  
19 restructuring process and to separate the ownership of generation from  
20 the provision of default electric service. Beyond the default pricing  
21 concerns noted in the Staff Report, NEPGA and RESA have consistently

1 expressed policy concerns with a bifurcated electricity market with rate-  
2 base generation not having to compete on a level playing field in either the  
3 wholesale or retail markets. Such a situation creates substantial cost and  
4 operational risks for consumers and undermines otherwise economic  
5 investments made to reliably and competitively meet consumer electricity  
6 demand.

7 Both associations met with staff and filed comments in connection with the  
8 development of the Staff Report arguing in favor of divestiture and both  
9 associations offered legislative testimony in favor of divestiture bills before  
10 the General Court in 2012, 2014 and 2015.

11 **Q. PLEASE EXPLAIN YOUR ORGANIZATION'S ROLE IN THE**  
12 **DEVELOPMENT OF THE SETTLEMENT**

13 A. NEPGA and RESA have had a common interest in supporting divestiture.  
14 In light of that alignment and in order to more efficiently participate in the  
15 present docket NEPGA and RESA sought and were granted joint  
16 intervention in the proceeding and have coordinated their participation  
17 accordingly, including their participation in confidential settlement  
18 discussions with the other settling parties. While we are not at liberty to  
19 disclose those confidential discussions we can confirm that we were  
20 invited to join the settlement discussions, actively participated in the  
21 ensuing discussions and fully support the settlement agreement, including

1 the provision in Section XI that “The Commission must approve this  
2 settlement Agreement by a Final Order, without condition or modification,  
3 unless otherwise agreed to by the Settling Parties as provided in Section  
4 XII (D).” A multi-party settlement, such as this one, is a delicate balance  
5 of inter-related concessions. Left to their own each party would almost  
6 certainly make changes to improve the results for themselves. We  
7 support the Settlement Agreement because we believe that as a whole the  
8 package of benefits and concessions is preferable to proceeding with  
9 litigation before this commission and potentially beyond. We therefore  
10 caution the Commission against making changes or modifications that  
11 could upset the careful balance of interests which the agreement  
12 represents.

13 **Q. PLEASE EXPLAIN THE BENEFITS OF DIVESTITURE THAT WILL**  
14 **RESULT IF THE SETTLEMENT IS APPROVED**

15 A. Approval of the Settlement and divestiture of the remaining generation  
16 assets will produce several benefits and will bring about the logical  
17 completion of the restructuring of the electric power industry that the state  
18 set in motion almost two decades ago.

19 First, through divestiture the investors, not consumers, bear the risk of  
20 capital investment. This is the most compelling reason to move forward  
21 with divestiture. Prior to 1996, utility companies and their government

1 regulators made decisions as to where customers would get their power  
2 and what they would pay for it. Cost overruns such as those seen on  
3 PSNH's scrubber project are generally recoverable from consumers.  
4 Continuing the status quo would prolong this treatment for PSNH  
5 customers. Approval of the settlement will align PSNH with its sister  
6 companies in other states, and the other New Hampshire utilities, and  
7 transfer the risk of future capital investment in generation to the  
8 shareholders and investors of competitive generation companies and  
9 away from captive ratepayers.

10 Notably, an often-discussed alternative to divestiture has been a non-by-  
11 passable charge to recover increased rate-base plant costs while  
12 maintaining the utility ownership of the facilities. Such a scenario would  
13 treat the symptom but not the disease. Instead, the Settlement  
14 Agreement before the Commission would once and for all break the cycle  
15 of direct cost recovery through retail electric rates of plant maintenance, a  
16 guaranteed rate of return and additional plant upgrades or costs that may  
17 be necessary. Going forward, the new resource owner(s) would have to  
18 use their own capital to support plant operations and compete against all  
19 other plants to provide the most cost-competitive electricity service for  
20 consumers.

1 Second, divestiture will enhance the competitive retail electric market. So  
2 long as PSNH relies upon default service customers to recover the cost of  
3 its generation investments and the associated return on those investments  
4 PSNH will have an economic incentive to discourage customers from  
5 switching to competitive supply alternatives. While we are not aware of  
6 any evidence that PSNH has attempted to impede customer choice there  
7 is always a concern that misaligned economic incentives can eventually  
8 have a subtle influence on employee behavior, making the facilitation of  
9 customer switching at the very least a lower work priority and perhaps  
10 discouraging innovations to improve customer choice that might occur  
11 absent such misalignment.

12 Third, moving away from the current system whereby PSNH uses its own  
13 power plants to serve its default service customers allows greater  
14 transparency and accountability. Currently, PSNH's generation assets  
15 meet only a portion of its default customers needs. Unfortunately, there is  
16 no transparency to this process and it is not entirely clear how decisions  
17 are made when to run the rate-based fleet and when to make purchases  
18 from the wholesale market and if so on what terms. Putting PSNH on the  
19 same procurement model as Unitil and Liberty will allow for the conduct of  
20 an orderly, open and competitive solicitation and a meaningful review of  
21 the solicitation process. This will ensure that all utility default service

1 consumers in New Hampshire receive competitively priced power through  
2 a Commission-determined mechanism.

3 **Q. DO YOU HAVE ANY THOUGHTS ON HOW THE AUCTION PROCESS**  
4 **FOR THE SALE OF GENERATING ASSETS SHOULD BE**  
5 **STRUCUTRED?**

6 A. Yes. Fortunately for this commission the sale of regulated generation  
7 assets by PSNH is nothing new. In 2002 the commission approved the  
8 sale of a controlling interest in Seabrook Station from PSNH and its  
9 affiliates to Florida Power and Light (now NextEra). To assure a fully  
10 competitive auction sale that would maximize the value realized for the  
11 assets the commission directed the engagement of a third party auction  
12 manager (JP Morgan) to conduct the solicitation and to report the results.  
13 The commission staff was involved throughout the process and on  
14 September 12, 2002 the commission issued an order (Order No. 24,050)  
15 approving the sale.

16 In many ways the sale of Seabrook presented a much more challenging  
17 transaction than the present divestiture. Seabrook had multiple owners,  
18 many more affected employees, and numerous regulatory issues  
19 associated with the unique nature of nuclear generation assets. It was  
20 also sold at a time when the re-sale of power plants was a less common  
21 occurrence. Nevertheless, we believe that the Seabrook sale provides the

1 commission with an excellent roadmap for the asset sale to be conducted  
2 under the present Settlement Agreement. Specifically, the selection  
3 through an RFP of a qualified asset sale manager, the development and  
4 issuance of an offering memorandum, allowance for qualified bidders to  
5 access information on a confidential basis and conduct the necessary due  
6 diligence, oversight of the process by commission staff and a process for  
7 the final review and approval of the outcome by the commission are all  
8 elements which can and should be incorporated once again into the  
9 divestiture process. In our experience these types of transactions have  
10 become much more common since the Seabrook sale and the use of such  
11 an auction process has become familiar to potential bidders within the  
12 industry and has repeatedly produced successful results.

13 **Q. BASED ON YOUR EXPERIENCE AND KNOWLEDGE, IN YOUR**  
14 **OPINION, DOES THIS SETTLEMENT AGREEMENT SERVE THE**  
15 **PUBLIC INTEREST?**

16 A. Yes. The Settlement Agreement and the completion of restructuring that it  
17 represents provides consumers a fully competitive marketplace with the  
18 appropriate insulation from costs and risks associated with rate-base  
19 power plant ownership. It also completes the move to a fully-competitive  
20 generation marketplace fulfilling the commitment made over a decade ago  
21 with restructuring, a basis on which competitive power generators invested

1 here in New Hampshire and across New England. For the reasons  
2 described above, the Settlement Agreement represents provides a strong  
3 foundation for consumers and the state at large for a sustainable  
4 competitive electricity market.

5 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

6 A. Yes.

7

8