



ORIGINAL

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

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February 4, 2016 - 1:33 p.m.
Concord, New Hampshire

DAY 3
AFTERNOON SESSION ONLY

RE: DE 14-238 PUBLIC SERVICE COMPANY OF
NEW HAMPSHIRE: Determination regarding
PSNH's Generation Assets.

DE 11-250 PUBLIC SERVICE COMPANY OF
NEW HAMPSHIRE: Investigation of
Scrubber Costs and Cost Recovery.

PRESENT: Commissioner Martin P. Honigberg, Presiding
Commissioner Kathryn M. Bailey
Special Commissioner Michael J. Iacopino

Jody Carmody, Clerk

APPEARANCES: Reptg. Public Service Co. of N.H.:
Matthew J. Fossum, Esq.
Robert A. Bersak, Esq.

Reptg. City of Berlin and the Town of
Gorham, New Hampshire:
Christopher L. Boldt, Esq.
(Donahue, Tucker)

Reptg. Sierra Club:
Zachary M. Fabish, Esq.

COURT REPORTER: SUSAN J. ROBIDAS, NH LCR NO. 44

{DE 11-250/DE 14-238}[DAY 3 PM SESSION ONLY]{02-04-16}

1 APPEARANCES: (c o n t i n u e d)

2 Reptg. Office of Energy & Planning:
3 Christopher G. Aslin, Esq., DOJ
4 Meredith A. Hatfield, Director

5 Reptg. Granite State Hydropower Assn.:
6 Susan S. Geiger, Esq. (Orr & Reno)

7 Reptg. New England Power Generators
8 Assn.:
9 Carol Holahan, Esq. (NEPGA)

10 Pentti Aalto, pro se

11 Reptg. Terry Cronin:
12 Arthur B. Cunningham, Esq.

13 Reptg. the PUC Staff Advocates:
14 F. Anne Ross, Esq.
15 Thomas C. Frantz, Dir./Electric Div.

16 Reptg. Residential Ratepayers:
17 Susan Chamberlin, Esq., Consumer Adv.

18 Reptg. PUC Non-Advocate Staff:
19 Alexander F. Speidel, Esq.
20 Suzanne G. Amidon, Esq.

I N D E X

PAGE NO.

CLOSING ARGUMENTS BY:

Ms. Geiger	6
Ms. Holahan	15
Mr. Cunningham	18
Mr. Aalto	25
Mr. Fabish	27
Ms. Amidon	29
Ms. Ross	32
Ms. Chamberlin	38
Mr. Boldt	40
Mr. Aslin	44
Mr. Fossum	55

THE FOLLOWING PARTIES TO SUBMIT WRITTEN CLOSING
STATEMENTS TO THE COMMISSION:

Mr. Harrington
Mr. Irwin
Senators Bradley and Feltes
Representative Moffatt
Business and Industry Association

E X H I B I T S

NOTE: All exhibits entered as full exhibits, except those listed below:

EXHIBIT ID	D E S C R I P T I O N
JJ	(Marked for ID ONLY)
KK	(Marked for ID ONLY)
LL	(Marked for ID ONLY)
NN	(Marked for ID ONLY)
QQ	(Marked for ID ONLY)
RR	(Marked for ID ONLY)

P R O C E E D I N G S

(Hearing resumed at 1:33 p.m.)

CHRMN HONIGBERG: Okay. First order of business that I have is exhibits. Is that where we're going to start?

MS. AMIDON: Yes, it is. And Attorney Bersak has a list that all the parties have agreed to. The list is of the things that came out.

CHAIRMAN HONIGBERG: Outstanding. Mr. Bersak.

MR. BERSAK: Thank you, Mr. Chairman. We've gone through the list as a group very collegially. And the exhibits which we believe should not be moved into evidence include: JJ, KK, LL, NN, like Nancy Nancy or November November, QQ and RR. And all the other exhibits we all feel are ones that should be moved into the record of this proceeding.

CHAIRMAN HONIGBERG: All right. That's good. Thank you. So that was easy enough, for me.

What's next? Are we up to

1 closings?

2 MS. AMIDON: Yes. And what we
3 discussed is, because the Settling Parties have
4 the burden of proof, they should go last. So,
5 the Non-Settling Parties should go first, and
6 the Non-Settling Parties have agreed that Staff
7 can go last of that group.

8 CHAIRMAN HONIGBERG: Oh, okay.
9 So it's Non-Settling Parties other than Staff,
10 then Non-Settling Staff and then the Settling
11 Parties.

12 MS. AMIDON: Correct. Probably
13 ending with the Company.

14 CHAIRMAN HONIGBERG: All right.
15 Do we have an order for people? Have you
16 discussed that at all, or I just get to choose?

17 MS. AMIDON: You get to choose.

18 CHAIRMAN HONIGBERG: All right.
19 Ms. Geiger, since you have a fairly discrete and
20 unique item, you want to go first?

21 CLOSING ARGUMENTS

22 MS. GEIGER: Yes. Thank you, Mr.
23 Chairman.

1 Granite State Hydropower
2 Association has participated as a Non-Settling
3 Party in this docket, even though it takes no
4 position on the primary issue, which is the
5 asset divestiture. Granite State Hydropower
6 Association could not sign on to the Settlement
7 Agreement because the "avoided cost" language
8 in Section III.C. of the 2015 Settlement
9 Agreement does not comport with FERC
10 regulations defining "avoided cost" for
11 purposes of utilities' purchases from QFs.
12 Therefore, the Commission should not approve
13 that section of the Settlement Agreement.

14 The Commission should instead
15 order that the Settling Parties modify the
16 language of the Settlement Agreement to comport
17 with the FERC rule as GSHA has suggested in Mr.
18 Norman's supplemental prefiled testimony.
19 Alternatively, the Commission should approve
20 the Settlement Agreement conditioned upon
21 including GSHA's suggested language change as
22 indicated in Mr. Norman's supplemental
23 testimony.

1 In addition, the Commission
2 should issue an order that clarifies that the
3 market price referred to in the 1999 Settlement
4 Agreement is the day-ahead market price. GSHA
5 has demonstrated that changes have occurred in
6 the administration of the New England market
7 since adoption of the 1999 agreement that are
8 so significant, that the language in the '99
9 Settlement Agreement should not be repeated in
10 the 2015 Settlement Agreement. Language in the
11 2015 Settlement Agreement should be modified to
12 reflect the reality of PSNH's current
13 circumstances, in terms of how it is
14 participating in the existing ISO-New England
15 markets, and it should also be consistent with
16 PURPA. GSHA has demonstrated that PSNH uses QF
17 power to meet its load obligations and that
18 when PSNH needs to purchase additional power,
19 90 percent of those purchases occur in the
20 day-ahead market. That means that 90 percent
21 of the time that PSNH buys power, it's the
22 day-ahead prices that PSNH avoids when it buys
23 QF power; thus, paying QFs the lower real-time

1 market price 100 percent of the time is
2 improper. This practice must end immediately.

3 PSNH appears to be arguing that,
4 because ISO-New England categorizes GSHA's QFs
5 as "settlement-only generators," that they must
6 be paid real-time or settlement market prices.
7 That argument misses the mark because it fails
8 to focus on the relevant question, which is:
9 What are PSNH's avoided costs? It doesn't
10 matter how ISO-New England views QFs. The
11 federal law and federal regulations require
12 that avoided costs of a purchasing utility must
13 be based on that utility's generation and
14 purchase costs.

15 In addition, PSNH's unilateral
16 decision to value these QF purchases at
17 real-time market prices is not relevant for
18 purposes of determining avoided cost under
19 PURPA. What counts here is PSNH's actual
20 avoided costs.

21 FERC's Excelon Wind decision
22 which has been cited in the materials and in
23 the exhibits provides that a locational

1 imbalance market price -- which Mr. Shuckerow
2 has admitted is like ISO-New England's
3 real-time market price -- is not a proper
4 avoided cost rate for PURPA purchases made by a
5 utility like PSNH that generates electricity.

6 The New Orleans case cited by
7 PSNH is a "red herring." In that case, FERC
8 declined to rule on an avoided cost issue
9 because FERC did not have before it a state
10 commission decision on avoided costs for "as
11 available sales" by QFs.

12 Although PSNH is arguing that
13 this issue is an "evolving one" -- I believe
14 Mr. Shuckerow indicated that -- the Excelon
15 Wind decision is directly on point and
16 indicates that FERC has rejected a state
17 commission's adoption of locational market
18 imbalance rates as avoided costs for QF
19 purchases.

20 PSNH's reliance on the wording
21 of the 1999 Settlement Agreement as not
22 allowing it to -- or as permitting it to pay
23 real-time prices is improper. The real-time

1 market did not even exist in 1999, so that rate
2 could not have been contemplated by the
3 Settling Parties at that time. For that reason
4 alone, the Commission should reject PSNH's
5 argument that it should be allowed to
6 perpetuate this flawed interpretation of the
7 '99 settlement agreement.

8 PSNH's argument that its avoided
9 costs should be set in the same manner as other
10 New Hampshire utilities and states where
11 electric utilities have divested their
12 generation assets also must fail. PSNH still
13 owns generating assets and makes market
14 purchases. Other New Hampshire electric
15 utilities do not do that.

16 Also, PSNH's reliance on this
17 Commission's decision in the Industrial
18 Cogenerators Group case is misplaced. Mr.
19 Shuckerow stated at Page 11, Lines 5 through 7
20 of his prefiled testimony, that the Commission
21 found in that case that the proper avoided cost
22 rate is based upon the marginal price of the
23 utility. That decision was made in 1987, well

1 before the ISO-New England existed. So the
2 marginal price referenced in that decision is
3 not the real-time energy market price.

4 Moreover, the Industrial Cogenerators decision
5 was made in a docket that was establishing a
6 20-year rate for a new generating unit to be
7 built and has no relevance to ISO-New England
8 today.

9 FERC rules require that a
10 purchasing utility's avoided cost rate must not
11 discriminate against QFs. GSHA submits that
12 the lower real-time market price paid to QFs
13 under the Settlement Agreement is
14 discriminatory because it ignores that
15 90 percent of PSNH's purchases occur in the
16 day-ahead market where prices, on average, are
17 higher than in the real-time market.

18 FERC rules also require that QF
19 rates must not harm customers. However, it's
20 important to note, as Mr. Norman has testified,
21 without correction or opposition from PSNH, at
22 times PSNH is running generating plants at
23 costs above market prices, and those higher

1 costs are being recovered by New Hampshire
2 PSNH's customers.

3 It's also ironic that under the
4 Settlement Agreement, PSNH is willing to pay
5 \$5 million into a Clean Energy Settlement Fund,
6 but is not willing to pay GSHA's Clean Energy
7 producers a fraction of that amount annually to
8 reflect day-ahead prices.

9 It should also be noted that New
10 Hampshire's QFs are receiving market prices
11 that are well below cost PSNH is allowed to
12 recover under its default energy service rate.

13 Lastly, this proceeding first
14 began in October of 2014 and has continued for
15 more than 15 months. GSHA's participation in
16 this docket has strained its resources, and QFs
17 during this time have been paid for their
18 energy at the ISO-New England real-time rate,
19 which, as we said, is lower than the day-ahead
20 price.

21 In Mr. Norman's supplemental
22 testimony, at Pages 8 to 9, he suggested
23 language to be substituted for Section III.C.

1 of the Settlement Agreement. GSHA respectfully
2 asks the Commission to decide this matter
3 expeditiously and thanks the Commission for its
4 time and attention and listening to GSHA's
5 testimony and these comments today. Thank you.

6 CHAIRMAN HONIGBERG: Thank you,
7 Ms. Geiger. I think we're going to stay on that
8 side of the room. Ms. Ross, was the decision
9 made that you were going to read Mr.
10 Harrington's statement, or are you just going to
11 submit it in writing?

12 MS. ROSS: I was going to submit
13 it.

14 CHAIRMAN HONIGBERG: That's fine.

15 MS. ROSS: Would you like me to
16 do that now?

17 (Commissioners confer off the record.)

18 CHAIRMAN HONIGBERG: Ms. Geiger,
19 we have a quick question. Just to confirm,
20 you're still planning on filing something on
21 Monday; correct?

22 MS. GEIGER: Yes. And that will
23 just be limited to the legal issue implicated by

1 the FERC cases --

2 (Court Reporter interrupts.)

3 MS. GEIGER: It will be limited
4 to the legal issue of what is the proper avoided
5 costs under PURPA and FERC rules, as well as
6 addressing some of the legal authorities and
7 case citations that have been made in this
8 docket relative to FERC orders.

9 CHAIRMAN HONIGBERG: Okay. Thank
10 you.

11 Yes, Ms. Ross, why don't you,
12 just at the end, you can get that submitted.
13 It's not evidence. It's just a closing. So we
14 won't mark it that way. But we will have to
15 file it some way, docket it.

16 We'll stay back there. Ms.
17 Holahan.

18 MS. HOLAHAN: Good afternoon, and
19 thank you for the opportunity to summarize
20 NEPGA's and RESA's positions regarding this
21 docket.

22 As the Commission is well aware,
23 approving this settlement is not just about a

1 single transaction or a series of transactions;
2 it's about setting a course for the next
3 chapter in New Hampshire's energy future.
4 Without a doubt, fundamental to the decision
5 regarding divestiture includes achieving the
6 important rules of completing, finally,
7 restructuring here in New Hampshire, creating a
8 competitive electricity market in New
9 Hampshire, and shifting risks away from
10 ratepayers and onto investors to create a
11 better alignment of risks and incentives for
12 electric utilities and their customers.

13 In addition to the Commission's
14 decision in this docket, it will necessarily
15 address issues related to stranded costs from
16 existing PPAs.

17 In addition to these important
18 issues, the Commission's decision should also
19 address the policy of ensuring that the
20 procurement of default service post-divestiture
21 occurs by a process that is open, competitive
22 and transparent, to avoid the risk of future
23 stranded costs. Specifically, that policy

1 should include a requirement for full
2 requirements load following supplies. The
3 record in this docket reflects through the
4 testimony of Eversource's witness Mr. Shuckerow
5 that default service be procured in this
6 manner, and it is outlined more specifically in
7 a letter authored by Eversource and marked as
8 Exhibit SS. During the testimony of the NEPGA
9 and RESA panel, the witnesses were asked what
10 language they would like to see in a final
11 order. Succinctly stated, NEPGA and RESA would
12 like the Commission to first state the
13 underlying policies that support the
14 Commission's approval of divestiture, including
15 the shift of risks away from ratepayers and
16 onto investors, and establishing a better
17 alignment of risks and incentives for the
18 utilities. Second, establish the policy for
19 the competitive procurement of default service
20 going forward. That would be beneficial to the
21 ratepayers in this state.

22 Divestiture represents an
23 opportunity for New Hampshire to move away from

1 rate-based entitlements, with all the risks and
2 costs that go along with them. It would be
3 self-defeating if we are back before this
4 Commission just months from now talking about
5 the next wave of entitlements being asked to be
6 borne by ratepayers that turn into stranded
7 costs. NEPGA and RESA strongly urge the
8 Commission to set a strong policy moving
9 divestiture forward with a competitive market
10 provided to all of New Hampshire customers.
11 Thank you.

12 CHAIRMAN HONIGBERG: Mr.
13 Cunningham.

14 MR. CUNNINGHAM: Thank you, Mr.
15 Chairman, members of the Commission. I think I
16 can be brief, and I think I have probably
17 outlined what I would ask this Commission to do
18 in my opening statement. But let me be blunt.

19 This contract, this Settlement
20 Agreement, was not competently done. It
21 wouldn't satisfy the standards of any competent
22 law office that had to draft an agreement that
23 is protective of ratepayers. I'm not just

1 talking about residential ratepayers in this
2 instance. I'm talking about all ratepayers.
3 Not only is the draft -- not only is the
4 Settlement Agreement not competently prepared,
5 it didn't satisfy the law. As I think I cited
6 in my opening statement, R.S.A. 374-F:3, XII(d)
7 requires that the cost be proved and
8 established on a net basis, that the cost be
9 verifiable, that the cost be limited in
10 duration, and that the cost to be recovered by
11 virtue of a stranded cost recovery charge be
12 fair to all customers. So, not only is the
13 agreement not competently done from a legal
14 standpoint, it doesn't satisfy the law.

15 If you recall the testimony,
16 members of the Commission, I think the most
17 powerful witness that made my case on behalf of
18 Mr. Cronin was Witness Reed. He was asked
19 about environmental risks. He was asked about
20 accounting risks. He was asked about equipment
21 risks. Just for example: What are the costs
22 or potential costs of remediation? We talked
23 about Schiller maybe being \$30 million. I can

1 guarantee you, in the real world, when buyers
2 show up and do their due diligence, they're
3 going the find issues way beyond the Schiller
4 issue. They're going to want a discount.
5 They're going to look at the permitting issues.
6 They're going to look at the issues with
7 respect to air permits. Mr. Irwin's not here,
8 but he introduced and discussed with
9 Mr. Smagula the pending lawsuit regarding air
10 permits. This is a huge matter, because when
11 the plant was upgraded, PSNH did not obtain all
12 the necessary air permits. That's a
13 significant risk, and sophisticated buyers are
14 going to want to examine that. The cost to
15 deal with that are unknown. There's water
16 risks. We know there's water risks with
17 respect to PCBs. There's site risks,
18 accounting risks. When buyers do their due
19 diligence, they're going to assess accounting
20 risks: Are there potential tax obligations?
21 Were all the costs booked correctly? They're
22 going to look at the equipment. We're talking
23 about very expensive equipment, very

1 sophisticated equipment, particularly in these
2 fossil plants. They have boilers, they have
3 turbines, they have fuel facilities, they have
4 environmental SCRs. They have all this
5 equipment that a sophisticated buyer is going
6 to look at to see whether or not the equipment
7 is in running order and whether all the
8 permitting issues are properly satisfied. All
9 these risks are unknown, and the numbers are
10 unknown; yet, the Settlement Agreement requires
11 the ratepayers to eat all these costs and all
12 these risks. So, the Company here hasn't begun
13 to satisfy its burden of proof requirement as
14 set forth by the statute.

15 On the prudence issue, I know
16 that the prudence record is closed. But I
17 strongly suggested this to the Commission, that
18 there's enough material in 11-250 for this
19 panel to make a prudence decision. For
20 example: I know -- I followed this docket very
21 carefully. I know there was substantial
22 evidence in that docket about the cost of gas.
23 As the cost of gas went down, this plant became

1 more and more economical. We know from
2 testimony in this docket, in this case, in this
3 room, that the plant default rates exceeded any
4 other rate in the state of New Hampshire in
5 mid-2009. That all links and ties together.
6 We know from public comments, and I know this
7 personally because I filed four public comments
8 in 11-250 on the secrecy of the Scrubber
9 project itself. Those comments are on record,
10 and those comments challenged the adequacy of
11 the examination of the actual plant itself in
12 the Jacobs consultancy report. All that
13 material is of record in 11-250 that this
14 Commission can and should look at to make a
15 prudence determination. We know that once it
16 became obvious that the plant had become
17 uneconomic to run in terms of its rates, that
18 management pressed on with the costs of this
19 Scrubber. And as Mr. Cronin testified, the
20 management had promised a baseload source of
21 power, and all of a sudden, from 2009 on, it
22 became a peaking plant. That all goes to the
23 prudence decision. We know that just a little

1 over two years later, La Capra, after spending
2 a half a billion dollars on this Scrubber, La
3 Capra determined that Merrimack Station was
4 worth nothing.

5 So, as I said in my opening
6 statement, what Mr. Cronin is asking this
7 Commission to do is to make a prudence
8 decision. There's enough in the record for
9 this Commission to make a prudence decision.

10 This Commission should establish
11 an end date on these costs. This Commission
12 should -- and we ask this Commission to
13 determine when the rate of return expires.
14 These costs can't be nailed down, so the
15 Company simply failed to satisfy their burden
16 of proof on these costs. What we have is a
17 great unknown. What we have basically is a
18 blank check that the ratepayer will have to
19 eat. For example: If there's a failed
20 auction, the costs just get rolled over. When
21 do they end? When does the 9.81 percent end?
22 Does that play into the stranded costs? This
23 agreement doesn't deal with that issue. We

1 don't know from the proof and evidence in this
2 case how the temporary rate was booked. And
3 this Commission has ordered a new rate to fully
4 retire the Scrubber costs. We don't know how
5 that's booked. There's simply no evidence in
6 this record whatsoever of how that was booked.
7 That goes into the question of what are the net
8 costs that the statute requires? When do they
9 find out how Eversource booked the temporary
10 rate? Where did the money go? Did it go on
11 principle? Did it go on interest? Did it go
12 on operating costs? I mean, this record is
13 devoid of any evidence of how the temporary
14 rate was applied to reduce the Scrubber costs.

15 So, what Mr. Cronin is asking of
16 this Commission is: Do the prudence decision.
17 Make a determination that the contract is
18 invalid because the costs are unknown. Nobody
19 has even proposed a cap on the costs, let alone
20 know the costs. So, one way to cure this thing
21 would be to analyze all the potential costs and
22 put a cap. Make a prudence decision. Put a
23 cap on the cost. Put in the order when the

1 9.81 percent terminates. Does this continue to
2 just roll on and on? Does it go into the
3 default service rate? Does it go into -- if
4 there's a failed auction, does it go into some
5 kind of a cost recovery? We don't know from
6 this agreement. It's so vague on all these
7 issues.

8 So, not only, members of the
9 Commission, has Eversource failed in its burden
10 of proof, it's not satisfied its statutory
11 obligations in terms of having a sufficient
12 contract. That's the end of my discussion.

13 CHAIRMAN HONIGBERG: Thank you,
14 Mr. Cunningham.

15 Mr. Aalto.

16 MR. AALTO: Utilities have a --

17 CHAIRMAN HONIGBERG: Microphone.

18 MR. AALTO: Again.

19 Traditionally, utilities do have business risk.
20 In this case, the Company assumes perhaps
21 4 percent of the total value of its investments
22 as risk. That leads to potentially very heavy
23 payments on the part of customers. I believe

1 what I was arguing for was that we try to reduce
2 those in any way we can. I don't argue the
3 issue of prudence because I don't have the
4 background to do that. Whatever those numbers
5 come out, the remaining part probably still will
6 be expensive.

7 And then what I would urge,
8 based on the discussions of today, that perhaps
9 a solution that would make the most sense would
10 be to incorporate a requirement on the part of
11 any buyer of a plant have a power supply
12 contract to serve the interests of the
13 customers and their payments for the stranded
14 costs, so it doesn't go to any individual
15 customer, it goes to the stranded cost
16 reductions going forward. That obviously would
17 require that the contract isn't how much does
18 the buyer pay for the plant, it's how much of a
19 share of the income does it collect. The basic
20 concept of selling the plants I don't have an
21 issue with, but I would like to try to maximize
22 the benefit to customers. Thank you.

23 Mr. Fabish.

1 MR. FABISH: Thank you. It's
2 been a long week, so I will do my best to be
3 brief.

4 Sierra Club did not sign the
5 Settlement Agreement. We do not support it,
6 but we also do not oppose it. I think that the
7 evidence in this docket and in 11-250 is
8 strongly suggestive that the long-term
9 economic -- the long-term economic prospects
10 for the fossil assets of PSNH's generation
11 fleet, particularly the coal-fired assets,
12 those prospects aren't particularly good, to
13 say the least. Hearing this week -- you know,
14 we've heard more about potential need for
15 Scrubber installation [sic] at Merrimack at a
16 cost of a range of estimates between 60 and
17 over 100 million. There's new permitting for
18 Schiller as well, and the proposal in there
19 would require additional capital improvements
20 and operating costs for that facility. And
21 just to cite again, the issue with mercury and
22 asbestos and PCBs at Schiller and how there's
23 been testimony indicating that clean-up costs

1 there, while unknown, a \$20 to \$30 million
2 range has been cited.

3 So, putting all this together, I
4 think that this and other evidence indicates
5 that continued investment in the longevity of
6 these assets is incredibly risky, and so we're
7 very supportive of the idea of removing that
8 risk from the ratepayers. Where we diverge
9 from the Settlement Agreement is the idea, we
10 think, that for a \$600 million deal, as this
11 ultimately is, that magnitude of a deal should
12 probably include some more planning for
13 responsible transition away from aging and
14 dirty fossil power, towards cleaner and cheaper
15 solutions. We think that divestiture is a step
16 in the right direction. We think it is an
17 insufficient step. So, though we don't oppose
18 divestiture, we think that ultimately it falls
19 a bit short of where we'd like to see things
20 go. Thank you.

21 CHAIRMAN HONIGBERG: I think that
22 brings us to Non-Settling Staff. Although,
23 before you begin, Ms. Amidon, I know Mr. Irwin's

1 not here -- and I have an understanding, and
2 there's a good reason for him not to be here --
3 do you know if he wanted to submit something in
4 the nature of a closing?

5 MS. AMIDON: He will be
6 submitting something tomorrow. Due to his
7 personal circumstances, he couldn't do it today.

8 CHAIRMAN HONIGBERG: That's fine.
9 So we'll get something in writing from Mr. Irwin
10 tomorrow.

11 MS. AMIDON: Yes, you will.

12 CHAIRMAN HONIGBERG: All right.
13 Am I correct that there's no one else in the
14 non-settling group that needs to go?

15 (No verbal response)

16 CHAIRMAN HONIGBERG: That's
17 correct.

18 Okay. Ms. Amidon, you may
19 proceed.

20 MS. AMIDON: Thank you. The
21 subject of this hearing today is the 2015
22 Settlement Agreement which purports to resolve a
23 myriad of issues in a global settlement

1 agreement -- in other words, you can't tease the
2 settlement apart; it's all of one.

3 Initially, the Staff did not
4 support the agreement to go forward with
5 divestiture. But upon review and examination,
6 Staff now supports going forward with
7 divestiture as proposed in the Settlement
8 Agreement. Staff supports the Settlement
9 Agreement as amended, and it also supports the
10 Litigation Settlement Agreement, including the
11 motion to remove the designation of Tom Frantz
12 and Attorney Anne Ross as now exists.

13 In reaching this decision, Staff
14 looked at the -- you know, considered whether
15 the requirements of R.S.A. 369-B:3-a were
16 considered and that all of the requirements of
17 Roman II of that section were met, including
18 economic benefits and other issues related to
19 PSNH's -- strike that -- customers.

20 In addition, because divestiture
21 obviously results in customers going more to
22 the competitive market, we believe it also
23 comports with the requirements of 374-F by

1 promoting competitive market.

2 And finally, we believe it's a
3 reasonable resolution of all the issues in
4 Docket 11-250, the Scrubber proceeding, based
5 on the record in that docket.

6 There are two issues that were
7 litigated, and I just want to briefly address
8 each. First was the issue regarding rate
9 design. You have Staff Analyst Rich Chagnon's
10 alternate proposal to a rate design, which we
11 have not withdrawn and which we would request
12 you review in connection with your
13 deliberation.

14 With respect to the avoided cost
15 calculation methodology, we don't find the
16 Company's approach is unreasonable as they
17 develop that methodology. We didn't speak to
18 that issue, and I know you're going to be
19 getting legal briefs. But I thought it would
20 be important for you to complete the record,
21 for you to have our position. Thank you.

22 CHAIRMAN HONIGBERG: Thank you,
23 Ms. Amidon.

1 So the Settling Parties who are
2 going to be speaking, I think the order will go
3 and start again on my right. So, Ms. Ross, Ms.
4 Chamberlin, Mr. Boldt, Mr. Aslin and Mr.
5 Bersak. That's the group?

6 (No verbal response)

7 CHAIRMAN HONIGBERG: All right.
8 Sounds good. Off the record.

9 (Pause in proceeding)

10 CHAIRMAN HONIGBERG: Back on the
11 record. All right. Ms. Ross, you may proceed.

12 MS. ROSS: Good afternoon,
13 Commissioners. I want to begin by thanking both
14 the Settling Parties for having worked through a
15 very difficult and many-month-long process to
16 reach the original settlement agreement which
17 was filed in June. And I'd also like to extend
18 special thanks to the Advisory Staff, who, in my
19 view, took some extraordinary efforts to move
20 this litigation from a position where we had
21 very wide-ranging conclusions to a point where
22 we could agree to use a third-party expert with
23 reasonable inputs and have the courage to follow

1 where those numbers went. And I credit Advisory
2 Staff for that willingness, and especially for
3 the leadership of Alex Speidel and Les Stachow.

4 Now, with regard to the
5 statutory standard in the record that we have
6 put in front of you, I would just like to
7 remind the Commission that, from a statutory
8 point of view, the Legislature has put its
9 thumb on the scales, and they are weighted
10 heavily on the side of moving to a competitive
11 paradigm. Not only have they put their thumb
12 on the scales with regard to competition, but
13 they have specifically referenced the
14 Settlement Agreement that we worked hard to
15 present to them, although briefly and in much
16 less detail than we've been able to present it
17 to you. And it is before you today because the
18 Legislature trusts this Commission to do a
19 further and deeper analysis of many of the
20 issues that were noticed in the legislation,
21 and that's why we have language concerning,
22 first of all, the interests, the public
23 interests that you need to determine with

1 regard to divestiture, and also the more
2 specific directive that you actually look at
3 the allocation that we recommended from a rate
4 design standpoint and consider its fairness,
5 and also consider impacts on the economy.

6 So, what you have from us in the
7 way of expert testimony is primarily The
8 Brattle Group model with regard to the
9 divestiture question, which is a general
10 overview of customer costs under a
11 no-divestiture scenario and a divestiture
12 scenario, with an attempt based on using what I
13 think the settling group has agreed are
14 reasonable inputs to generate a rough estimate
15 of what magnitude and direction customer costs
16 would have under the two approaches. And that
17 model appeared to all of us to indicate there
18 were significant customer savings over the
19 first five years of divestiture. We didn't
20 attempt to present beyond five years because we
21 recognize that the level of uncertainty just
22 increases incredibly as you move further into
23 the future.

1 And then I want to remind you
2 that, with regard to technical evidence on the
3 impact on the economy here in New Hampshire,
4 and in PSNH's service territory, we have relied
5 on the REMI economic model, which I'm sure Tom
6 Frantz could do a better job of describing than
7 I will. Suffice it to say that it is a model
8 that attempts to predict, when you add dollars
9 to the economy through giving more money to
10 people to spend, how those dollars translate
11 into economic activity in the state.

12 Two, sort of general conclusions
13 can be reached from that presentation. One is,
14 the more money you give to people, the more
15 economic activity occurs; and conversely, the
16 less money you give to people, the lower the
17 level of economic activity.

18 There is one further sort of
19 refinement that I think we learned from
20 questioning the REMI witness, and that has to
21 do with the impacts on the economy to different
22 areas of users or players in the economy. And
23 as you may recall, Mr. Leung said that if we

1 give more money to consumers -- and in our rate
2 class paradigm, that would be to residential
3 ratepayers -- it does create economic activity
4 in the state and in PSNH's service territory,
5 but there is a significant amount of "leakage,"
6 as he mentioned. So, not all the dollars stay
7 in New Hampshire. If you give money to the
8 business classes who conduct business in the
9 state, as Mr. Leung indicated, you're giving
10 money to parties to invest. So you get a
11 better, a more economic, I'll call it "bang for
12 the buck" in layman's terms, but you contribute
13 more for the dollar that you give to that
14 class, in terms of positive impacts in the
15 economy. And I think that one of the reasons
16 that the BIA has supported the rate design that
17 we proposed, which gives the lightest burden in
18 stranded costs to the large industrial class, a
19 slightly higher burden to the commercial class,
20 and an even higher burden -- I'm sorry. I may
21 have misspoken. The lowest burden is to the
22 industrial, and then it gets to be a larger
23 burden as you move to the residential. There

1 was a reason for that. Without the benefit of
2 REMI, there was a sense, I think among the BIA
3 members, that the money in the pockets of those
4 large users was going to translate into jobs
5 and was going to be helpful to the New
6 Hampshire economy and to the economy within
7 PSNH's service territory. So the sort of
8 intuitive basis I think for the BIA support, I
9 think, was actually borne out by our REMI model
10 expert.

11 And then the last thing I'd like
12 to touch on is the staging of various
13 Commission decisions. Originally, before we
14 got involved in the Litigation Settlement
15 discussions with Advisory Staff, we had tried
16 to sort of provide general outlines in the
17 Settlement Agreement with regard to how we were
18 going to handle -- or how we hoped the
19 Commission would agree to handle the future
20 auction process. As we got into actually
21 trying to prepare testimony, and then in
22 discussing those options with Advisory Staff,
23 we realized that an important part of making

1 those later decisions on the auction process
2 would probably involve the advice of an auction
3 expert. And that was part of the reason that
4 the parties agreed to try to lead the direction
5 on the auction at a very high, sort of
6 here-are-your-goals levels, and allow the
7 Commission to make a more in-depth inquiry and
8 decision with regard to more of the specifics
9 of the auction once an advisor is onboard and
10 can assist with that.

11 And with that, I will close and
12 thank you all for your time and for all of your
13 thoughtful questions.

14 CHAIRMAN HONIGBERG: Thank you,
15 Ms. Ross.

16 Ms. Chamberlin.

17 MS. CHAMBERLIN: Thank you. The
18 OCA support for the Settlement Agreement is
19 based on an economic comparison between the
20 status quo and the terms of the agreement.
21 Today, all of the costs of operation and all of
22 the risks of migration, environmental mandates
23 and market changes, are on the default energy

1 service customers. Most of these customers are
2 residential customers. If the Commission
3 accepts the Settlement Agreement and proceeds
4 with divestiture, the cost burden of the PSNH
5 plan is substantially reduced for most
6 residential ratepayers. The risk of plant
7 ownership is transferred away from residential
8 customers to the market. It implements the
9 policy that the Legislature has put into place
10 for many years, which is in favor of
11 competition. The Settlement Agreement is the
12 better means of managing the economic burdens of
13 PSNH generation.

14 Concerning the environmental
15 remediation, it's premature for the Commission
16 to order complete remediation, with the costs
17 being allocated to the ratepayers. The
18 Commission should have the advice of an asset
19 manager to look at what's the best way of
20 getting the highest total transaction value for
21 the plants. The amount of remediation that's
22 needed and who should pay for it can be decided
23 at a later date. There's no need for the

1 Commission to make that decision today. Once
2 there's an asset manager, and that manager
3 makes recommendations regarding how to move
4 divestiture forward, then those decisions can
5 be made based on a full record and with full
6 advice.

7 So, for these very simple
8 reasons, that the residential customers are
9 better off under the Settlement Agreement than
10 they would be under the status quo, the OCA
11 supports the Settlement Agreement and asks that
12 you approve it.

13 CHAIRMAN HONIGBERG: Thank you,
14 Ms. Chamberlin.

15 Mr. Boldt.

16 MR. BOLDT: Thank you, Mr.
17 Chairman. On behalf of the City of Berlin and
18 the Town of Gorham, we thank you for allowing us
19 to participate as full intervenors. We are
20 here, first and foremost, to protect the tax
21 base of those North Country communities. We are
22 host communities of two of the assets that are
23 on the block. We support the terms of the

1 Settlement Agreement, specifically on the issue
2 of the auction process being maneuvered slightly
3 down the road to a second adjudicative
4 proceeding so that it did not take up the time
5 in this adjudicative proceeding. We are
6 supportive of that. It is part of the
7 legislative process for our North Country
8 delegation in supporting SB221.

9 The terms of the Settlement
10 Agreement are before you in Exhibits A and B,
11 along with the Litigation Settlement Agreement,
12 Docket C, and we support the language of that.
13 Also, because it exempts or takes the Burgess
14 Biomass PPA off of the table; that was a key
15 element for our North Country delegation
16 because of the number of jobs and opportunities
17 that are flowing from that operational plant
18 because of the existence of that PPA. There
19 has been no testimony of any substance
20 regarding putting that PPA into the mix, so we
21 view that as something that is, shall we say,
22 "off the table."

23 I do wish to step on the third

1 rail and note the provision of the statute,
2 specifically 369-B:3-a, II, the last sentence
3 of which says, "If there are conditions or
4 changes made by the Commission to the approval
5 of the Settlement Agreement, the parties to the
6 Settlement Agreement can withdraw and terminate
7 the agreement." So we trust that that is not
8 going to be the situation, that Burgess Biomass
9 would somehow mysteriously evoke itself into a
10 divestiture docket, where it is currently not
11 on the table.

12 The other key element for our
13 delegation in the North Country is that the
14 auction process be full, transparent, fair and
15 robust. That is why we have argued and
16 obtained the agreement for a second
17 adjudicative process. You will be in charge of
18 it. To address Commissioner Iacopino's
19 question, that is the way that we have full
20 transparency. We agree that the selection of
21 the auction manager can proceed immediately.
22 But when it comes to such as the groupings of
23 the auction, the auction process itself, and

1 obviously the approval of the final bids upon
2 which all of the stranded costs will be based,
3 that needs to come before you for a full, fair
4 and open public hearing. We are looking
5 forward to participating in that, per the terms
6 of the Settlement Agreement before you. All of
7 the host communities are deemed qualified
8 bidders. They can participate if they wish to.
9 That is a term in our city's original charter
10 back in the 1920s, that they can have an energy
11 commission for the generation transmission and
12 sale of electricity to its residents. That is
13 also carried forward in R.S.A. 38. That
14 protects and allows communities to own and
15 operate and generate power. These are issues
16 that were near and dear to the North Country
17 community. This is a way of protecting the tax
18 base so that the bids are as high as possible,
19 which is what everybody wants here, so that the
20 stranded costs are as low as possible, tax
21 bases and jobs are protected, and the
22 statute -- Senate Bill 221 is complied with.
23 And we ask for your support for the Settlement

1 Agreement. Thank you so much.

2 CHAIRMAN HONIGBERG: Thank Mr.
3 Bolt.

4 Mr. Aslin.

5 MR. ASLIN: Thank you, Mr.
6 Chairman. Before I give my closing, I was asked
7 to let the Commission know that Senators Bradley
8 and Feltes do plan to submit a written closing
9 statement, and that it is joined in by
10 Representative Moffatt, who's also an
11 intervenor.

12 CHAIRMAN HONIGBERG: Oh, okay.

13 MR. ASLIN: For your information.

14 CHAIRMAN HONIGBERG: Thank you,
15 Mr. Aslin. We'll look forward to receiving
16 that.

17 MR. ASLIN: And so, thank you
18 again, Mr. Chairman and Commissioner, for your
19 time and attention to this very important issue,
20 and the previous time and attention you gave to
21 the prior Docket 11-250, which was even more
22 lengthy than this one.

23 The Office of Energy and Planning

1 submits to you that the Settlement Agreement
2 represents a balanced and reasonable
3 resolution of two longstanding issues before
4 the Commission. First, it achieves the
5 legislative mandate from R.S.A. 374-F to
6 restructure the electric utility industry,
7 and to complete the transition of fully
8 competitive electric markets in New
9 Hampshire.

10 Second, it brings to a conclusion the
11 contentious issues surrounding the Scrubber
12 and its prudence. The Scrubber stands as a
13 stark example of the very reason that we
14 support divestiture at this time. It is the
15 risk that continued ownership of generation
16 assets by a utility brings to ratepayers to
17 pay for large capital expenditures that may
18 arise from a variety of sources, whether they
19 be regulatory, legislative or environmental
20 compliance issues that mandate investments.
21 Those risks of those investments fall on
22 ratepayers. And until divestiture is
23 completed, those risks remain, and they are

1 significant risks. We've heard testimony
2 from a variety of witnesses during this
3 proceeding of some of those potential risks,
4 and we think they're significant.

5 OEP strongly supports divestiture and
6 securitization, as outlined in the Settlement
7 Agreement. The Settlement Agreement, we
8 believe, provides a carefully crafted
9 framework for the Commission to approve
10 divestiture, but also to oversee the
11 implementation of divestiture and
12 securitization that balances the interests of
13 the very diverse group of stakeholders
14 involved. The evidence that you have heard
15 during this proceeding, we believe, clearly
16 shows that the Settlement Agreement is in the
17 public interest.

18 There was testimony and evidence
19 presented from an economic perspective, that
20 divestiture and securitization will result in
21 significant customer savings across customer
22 classes. Specifically, both the Brattle
23 analysis and the Liberty Group's analysis

1 found savings that would amount to
2 approximately \$100,000 a day for ratepayers
3 from divestiture and securitization. That
4 clock is ticking each day, and those dollars
5 are being lost each day that divestiture
6 doesn't happen. So we urge the Commission to
7 move expeditiously.

8 We also urge the Commission to consider
9 the other factors, including reduction of
10 risks that I just spoke of, the protection --
11 or the projection -- we heard evidence of the
12 projection of significant economic benefits
13 that would accrue from the savings that come
14 from divestiture. The REMI analysis provided
15 expansion of the gross state product and the
16 addition of jobs with those savings.

17 And the Settlement Agreement provides
18 for the protection of affected employees, as
19 required by R.S.A. 369-B:3-b, which also
20 provides protection for employees, for their
21 provide economic growth, by saving money to
22 those employees.

23 These issues and the evidence presented

1 on them was largely undisputed. There were
2 some disputes raised about the magnitude, but
3 very little did I hear that contested the
4 direction of those savings. We believe that
5 the record is very clear that there will be
6 substantial savings and that it would be in
7 the public interest.

8 The other piece of the Settlement
9 Agreement in that respect is the proposed
10 allocation of costs through a rate design we
11 believe is both fair and reasonable and
12 recognizes the current imbalance between
13 migrated customers and non-migrated
14 customers. Under the current status quo,
15 customers who remained on default service are
16 bearing a much larger burden to pay for the
17 cost of the plants, including the Scrubber.
18 Because of that current imbalance between
19 mostly small customers who are paying for
20 those costs and the large customers who
21 migrated and are not paying for those costs,
22 the rate design can rebalance that equation
23 by giving a lesser burden to the large

1 customers paying for the stranded costs
2 charge.

3 For all these reasons, OEP believes the
4 Settlement Agreement is in the public
5 interest, and we urge the Commission to
6 approve it. However, that is only the
7 beginning of the process. And as you heard
8 from some of the other parties, there is a
9 request in the Settlement Agreement for the
10 opening of a subsequent docket to review a
11 number of issues that will be needed to
12 implement divestiture should the Commission
13 approve it. We urge the Commission to take
14 up that request. And I'd like to speak a
15 little bit about what kind of issues would be
16 dealt with in that subsequent docket.

17 The first issue -- which is also the
18 subject of a motion regarding designation
19 that's pending -- is to issue an RFP to
20 retain the services of an expert auction
21 advisor to advise the Commission. We believe
22 that's an important step that could be taken
23 immediately as requested, pending even before

1 a final decision of this docket, such that a
2 RFP could be issued contingent upon a final
3 order approving divestiture. In other words,
4 we believe there's sufficient interest in the
5 auction advisor industry for bidders to bid
6 on an RFP, knowing that if the Commission
7 rules against divestiture, their contract
8 would disappear. But we do urge that that be
9 done immediately because it will allow, if
10 divestiture is approved, a faster resolution
11 of the auction process and eventual sale of
12 the plants.

13 As part of that request, there is also a
14 request to undue the designation of
15 "Designated Staff." The purpose for that
16 request is to give the Commission the full
17 expertise of its full staff to help review
18 the selection of the auction advisor and the
19 oversight of that auction advisor through the
20 development of the auction process. We
21 believe that that would be important and in
22 the public interest, and in the interest of
23 the Commission as well.

1 This subsequent proceeding that is
2 requested is important, and it touches on
3 many of the issues that the Commissioners
4 were asking about during this hearing. First
5 and foremost would be to design the auction
6 process itself. This would involve a number
7 of issues, including which assets would be
8 bundled together, if any; what form the
9 auction would take, whether different assets
10 would be auctioned in separate auctions or
11 altogether; whether a reserve would be
12 included for any of the assets. There are a
13 number of questions open, and they have been
14 left open on purpose because we believe it is
15 in the Commission's interest to have an
16 expert advisor provide expert advice before
17 it makes those decisions. And as
18 contemplated through the Settlement
19 Agreement, this proceeding would also give
20 the Commission the benefit of hearing from
21 not just the parties in this docket, but
22 other interested parties that may want to
23 comment on how a fair auction process can

1 proceed.

2 Another very important part of that
3 procedure would be to determine how best to
4 deal with issues such as environmental
5 remediation or other environmental issues
6 that have been found or will be found at the
7 various assets. You heard testimony from Mr.
8 Reed and Mr. Chung that there are potentially
9 significant costs associated with the
10 Schiller plant in remediating or disposing of
11 legacy mercury that's in those facilities.
12 Just how to handle those costs is an
13 important and complicated issue, and we
14 believe very strongly that the Commission
15 would benefit from the advice of an expert
16 auction advisor, as well as the advice and
17 comments of interested parties before making
18 a decision on that, on how best to manage the
19 auction and those issues. The current record
20 before you is insufficient for that decision,
21 and it also doesn't include a review of
22 potential prudence questions that might need
23 to be involved in the recovery of those

1 costs, or how those costs may be recovered.

2 These are all issues that would come
3 subsequent to this decision. A decision in
4 favor of the Settlement Agreement would not
5 foreclose the Commission from continued
6 oversight and involvement in deciding exactly
7 how the auction process proceeds, exactly
8 what assets are cleaned up or not cleaned up,
9 and ultimately deciding which bids are
10 accepted for those assets. The Commission
11 retains decision-making power and is not
12 agreeing by approving the Settlement
13 Agreement to accept any particular bid.
14 That's a subsequent step in the process that
15 would have to be achieved through further
16 proceedings, further evidence and development
17 of the record. This is how the auction
18 process has been handled in the past
19 successfully with the Seabrook auction, and
20 we believe it is the best path forward for
21 this Commission and for the state of New
22 Hampshire in this case.

23 I think that concludes my closing

1 statements. I would conclude by saying that
2 OEP respectfully asks the Commission to find
3 that the Settlement Agreement is in the
4 public interest, satisfies the requirements
5 of R.S.A. 369-B:3-a, and that the Commission
6 approve the Settlement Agreement, and
7 further, approve or grant the motion
8 regarding the designation that's pending
9 before the Commission.

10 I'd like to thank, again, the Commission
11 for your time and attention, and also thank
12 the parties for their hard work, and
13 especially recognize the difficult position
14 of the two different groups of Staff in
15 navigating the process through a designation,
16 which they have done well. And we've
17 ultimately reached a Settlement Agreement
18 which I believe brings the Commission the
19 best record and a clean proceeding which will
20 help the Commission make its decision. With
21 that, thank you very much.

22 CHAIRMAN HONIGBERG: Thank you,
23 Mr. Aslin.

1 Mr. Bersak.

2 MR. BERSAK: Thank you. I'd just
3 like to note that the Business and Industry
4 Association has filed a written closing
5 statement with the Commission.

6 And second, heeding your advice
7 from yesterday that I should delegate some of
8 my work, Mr. Fossum will be doing the closing
9 for the Public Service Company of New
10 Hampshire.

11 CHAIRMAN HONIGBERG: Mr. Fossum.

12 MR. FOSSUM: Thank you. I
13 appreciate the courtesy.

14 On behalf of the Company, I'll
15 begin by thanking the Commissioners for their
16 time and attention throughout this matter and
17 for the work yet to come in deliberating on
18 what has been presented over the last few days
19 and ultimately issuing an order.

20 I want to thank the parties to
21 the initial settlement that was filed back in
22 the middle of last year, because through their
23 efforts we believe that we've brought forward a

1 fair and reasonable settlement that will
2 resolve issues that have been left unsettled in
3 the state for the better part of the last two
4 decades. We wish to thank the Non-Settling
5 Staff for its review, for challenging that
6 initial settlement and ultimately concluding by
7 its additional review and analysis that
8 divestiture is appropriate. And lastly, to get
9 going, I wanted to thank even the other parties
10 to this docket who did not settle because they
11 brought their own views and perspectives to
12 this process. And even among those different
13 views and perspectives, I don't think it's
14 inaccurate to say that there's anybody in the
15 room who disagrees with the ultimate result,
16 and that is that PSNH should divest itself of
17 its generating assets.

18 New Hampshire began this effort
19 back in about 1996 with the passage of the
20 restructuring law in 374-F and with PSNH's
21 first settlement in 1999. While there have
22 been a few impediments along the way from there
23 to here, we're here again to settle these

1 matters consistent with those same principles.
2 This Commission has long encouraged settlements
3 for the resolution of its cases. And in this
4 case, there's been an additional promotion of
5 settlement of the issues by the Legislature, as
6 noted by Attorney Ross. This Commission also
7 said that, in reviewing settlements, the
8 interests of the various Settling Parties is a
9 relevant consideration. I would ask the
10 Commission to look at the Settling Parties that
11 are before them today. We have both the
12 Advocate and Non-Advocate Staff, the Consumer
13 Advocate, the Office of Energy and Planning,
14 and members of the Legislature, municipalities,
15 unions, environmental groups, power suppliers.
16 I would venture to guess that it's hard to
17 imagine a group with more diverse interests.
18 And I think that's a testament to what this
19 settlement provides.

20 We still acknowledge that the
21 Commission must find the agreement is
22 consistent with public interest and is just and
23 reasonable and comports with the requirements

1 of SB221. The Company believes that this
2 settlement agreement meets all the relevant
3 standards, and, if approved, PSNH would move as
4 quickly as it's reasonably able to sell its
5 generating assets. As parties have testified
6 at length in this process, having PSNH exit the
7 generating business, including through an
8 appropriate disposition of its two existing
9 PPAs and its status as a hybrid utility, and
10 make more clear its status in the marketplace.

11 I'd also pause to note, with
12 respect to the PPAs, that Senator Bradley was
13 most clear about the purpose of the Burgess PPA
14 as a means to influence strong public policy
15 and which is supported by the Governor,
16 Executive Council, legislators and others, as
17 noted by Mr. Boldt a few minutes ago.

18 The settlement also presents
19 other benefits to the state. It will avoid
20 having a shrinking pool of default service
21 customers, predominantly residential customers,
22 who continue to bear the cost of PSNH's
23 generation assets. It removes from PSNH and

1 its customers the risk of potential future
2 liabilities relating to the facilities. It
3 would remove from the Commission the burden of
4 continuing prudence reviews. It removes the
5 possibility of protracted disputes or
6 litigation with respect to the Scrubber, and it
7 completes the implementation of longstanding
8 public policy. The Settlement Agreement will
9 also, as you have heard and as the parties have
10 individually confirmed, including through Dr.
11 Murphy's recent analysis -- that there will be
12 benefits to the state in the form of customer
13 savings which may be reinvested throughout the
14 economy.

15 And as the REMI panel had also
16 stated, the settlement provides net economic
17 benefits to the state, a net positive impact on
18 employment.

19 Specific to a few terms in the
20 settlement, moving forward with it, the
21 settlement provides for employee protection to
22 current employees, provides protection of the
23 tax base to potentially affected municipalities

1 by tax stabilization payments, as well as the
2 requirement that the plants continue to be kept
3 in service following their sale. The
4 settlement results in clear economic benefits
5 to the state as contemplated and expected on
6 SB221.

7 Following the sale, and by
8 securitizing the stranded costs, PSNH's
9 customers, suppliers, state's businesses and
10 others, will have certainty at a time of
11 historically low interest rates. They will
12 have certainty of when their costs will end.
13 Securitization of the costs that are ultimately
14 approved by the Commission is a known process.
15 It's a process with which PSNH is familiar,
16 with which this Commission is familiar, and
17 with which many in this room are familiar. We
18 know how to do it to make sure that customers
19 benefit.

20 While the absolute amount of
21 stranded costs is not yet known and won't be
22 known until there is a sale, the Commission
23 will have the opportunity to both see and

1 oversee that sale, know those costs, and know
2 how they were incurred. And the Company has
3 also clearly signaled that it's invested in
4 this settlement with its commitment to forego
5 collecting \$25 million and to invest \$5 million
6 in a Clean Energy Fund.

7 To be clear, even with this
8 approval, there will be much to do to bring the
9 facilities to market, to run the auction, to
10 seek approval of the results. But as Mr. Reed
11 stated this morning, the Company is ready to
12 proceed immediately.

13 With respect to a few of the
14 issues that were not settled, particularly the
15 avoided cost issue, I recognize that legal
16 briefs are yet to be filed on that, so I'll
17 keep my comments very brief. I'll simply state
18 that, for purposes of today, I believe Mr.
19 Shuckerow provided very credible testimony
20 about what PSNH does and why, and why
21 continuing it is appropriate. We're going to
22 request the Commission approve the language in
23 the Settlement Agreement as it exists and

1 permit PSNH to continue operating as it has
2 done with respect to the QFs.

3 With respect to the rate design
4 issue, SB221 seeks a rate-design rate
5 allocation that is fair. The settlement
6 contains a proposed allocation of costs in a
7 manner that is fair. The universe of
8 interested parties to this settlement has
9 agreed that it is fair. They presented that
10 conclusion to the Legislation. As noted by the
11 OCA a few minutes ago, even under this rate
12 design as is proposed, residential customers
13 ultimately benefit. While there might have
14 been some other way to have allocated the
15 costs, what you have before you is a settlement
16 that has a fair and appropriate allocation, and
17 it should be approved.

18 In the end, and as you've heard
19 from a great many, this is a global and
20 comprehensive settlement. It is crafted on the
21 base of a prior settlement that was approved by
22 this Commission, and this settlement is
23 intended to reach and achieve the same goals.

1 While there may be some who will wish that it
2 said something different, what matters today is
3 whether the Settlement Agreement before you
4 comports with the statutory guidance, that it
5 is fair and reasonable and in the public
6 interest. The vast weight of the evidence that
7 you've seen and heard shows that it is, and the
8 Company requests that the Commission
9 expeditiously approve this settlement as filed
10 and without additional conditions, and permit
11 the process of restructuring in New Hampshire
12 to move efficiently toward completion.

13 And I would also add in closing
14 that the Commission move efficiently on the
15 next steps in the process, including lifting
16 the designation of the Designated Staff, begin
17 the retention of an auction manager, and have
18 all parties move forward to complete this
19 process. Thank you.

20 CHAIRMAN HONIGBERG: Thank you,
21 Mr. Fossum.

22 I think we are at the end. I
23 understood from Mr. Bersak that the BIA has

1 already filed something. Ms. Ross, you will
2 file whatever Mr. Harrington has for you. Mr.
3 Irwin will be filing, and the two senators and
4 Representative Moffatt will have a document
5 headed our way in the nature of a closing.
6 We'll look for the memos of law on Monday from
7 Eversource and from Ms. Geiger.

8 Mr. Speidel.

9 MR. SPEIDEL: Mr. Chairman, have
10 the identifications of the exhibits, aside from
11 those listed by Mr. Bersak this afternoon, been
12 stricken officially for the record, and have
13 they been entered into the record?

14 CHAIRMAN HONIGBERG: We probably
15 did not close the loop on that.

16 Based on Mr. Bersak's list of
17 those that were not to be struck and granted
18 full I.D. status -- full exhibit status,
19 rather, those will be struck and be admitted as
20 full exhibits. And we'll make sure that -- you
21 can make sure you work with the clerk to
22 identify which is which; correct?

23 MR. SPEIDEL: Yes, I'll check in

1 with the clerk tomorrow morning. I think she
2 knows which, but I'll double-check with her
3 tomorrow.

4 CHAIRMAN HONIGBERG: All right.
5 Anything else? You got me right at the end, so
6 your timing was very, very good.

7 MR. SPEIDEL: Kept it in my cap.

8 CHAIRMAN HONIGBERG: Commissioner
9 Bailey would like to note something.

10 COMMISSIONER BAILEY: I'd just
11 like to note that I think that the process that
12 this hearing used with respect to the exhibits
13 was the best process that I've ever seen. And
14 I've been through a lot of hearings in my days.
15 And I thank the parties profusely for giving us
16 the exhibit list in advance. I was able to put
17 all the exhibits in a binder labeled with the
18 designated exhibit numbers. And it was much
19 better organized and much more efficient than
20 I've ever seen. So, thank you. And I'd love to
21 adopt this process forever.

22 CHAIRMAN HONIGBERG: I also want
23 to thank the parties for their hard work on

1 this. I know that there was a tremendous amount
2 that went into every aspect of this. And having
3 an office that's relatively near to both
4 Settling Staff and Non-Settling Staff, it was
5 interesting to see how the conversations went
6 and then stopped magically when certain people
7 moved by. So it was not an easy process to
8 manage, but I do credit all of our staff on both
9 sides of the wall for taking care of this, and
10 credit all of you who worked with them, who were
11 not always in agreement with the Settling
12 Parties and the Non-Settling Parties on how to
13 proceed. It was done professionally, from our
14 perspective, and we very much appreciate that.

15 So if there is nothing else --
16 Mr. Speidel.

17 MR. SPEIDEL: Well, I just wanted
18 to thank, on behalf of Non-Advocate Staff,
19 Attorneys Amidon and also Patterson for their ad
20 hoc assistance and integration into the late
21 stages of this docket. Their work was
22 invaluable. And also Attorney Ross, Attorney
23 Bersak, and all the other litigants' attorneys,

1 in terms of cooperating with our efforts, we
2 greatly thank them all. Thank you.


3 CHAIRMAN HONIGBERG: All right.
4 With that, I think we're ready to adjourn --
5 rather, close the hearing. We'll take the
6 matter under advisement, and we'll get an order
7 or a series of orders out as quickly as we can.
8 Thank you all.

9 (WHEREUPON the hearing concluded at
10 2:43 p.m.)

C E R T I F I C A T E

I, Susan J. Robidas, a Licensed
Shorthand Court Reporter and Notary Public
of the State of New Hampshire, do hereby
certify that the foregoing is a true and
accurate transcript of my stenographic
notes of these proceedings taken at the
place and on the date hereinbefore set
forth, to the best of my skill and
ability under the conditions present at
the time.

I further certify that I am neither
attorney or counsel for, nor related to or
employed by any of the parties to the
action; and further, that I am not a
relative or employee of any attorney or
counsel employed in this case, nor am I
financially interested in this action.



Susan J. Robidas, LCR/RPR
Licensed Shorthand Court Reporter
Registered Professional Reporter
N.H. LCR No. 44 (RSA 310-A:173)