

**THE STATE OF NEW HAMPSHIRE
SUPREME COURT**

**APPEAL OF THE CITY OF BERLIN AND
THE TOWNS OF GORHAM AND NEW HAMPTON
(NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION)**

Docket No. 2017-0018

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE'S
MOTION FOR SUMMARY DISPOSITION UNDER RULES 10(1) AND 25(2)**

Public Service Company of New Hampshire ("PSNH") hereby respectfully moves, pursuant to Supreme Court Rules 10(1) and 25(2), that this honorable Court summarily dispose of this matter by affirming the decision of the Public Utilities Commission ("Commission") in Order No. 25,973 from the appeal filed by the City of Berlin and the Towns of Gorham and New Hampton (the "Municipalities"). In support of this Motion, PSNH submits the attached Memorandum of Law, and says the following:

1. This Court should summarily affirm the decision of the PUC because no substantial question of law is presented and the Commission's decision is not unjust or unreasonable. Sup. Ct. R. 25(1)(c).

2. The General Court has found "that divestiture of PSNH's generation plants...is in the public interest... ." RSA 369-B:3-a, I (2015). 2014 N.H. Laws, 310:1 and the Settlements concerning divestiture of PSNH's generating assets all provide an overriding directive to the Commission in its administration of an auction: to maximize the overall sale value of the generation assets. They also require that the Commission conduct the auction process as expeditiously as possible. *See also* RSA 369-B:3-a, II (2015).

3. Although municipalities like the Appellants were given the right to participate in the auction process, the Settlements made clear that such participation was permitted only so long as their participation did not interfere with maximizing asset value. 2015 PSNH Settlement, lines 459-462.

4. The Commission complied with the terms of the statutes and the Settlements by expediting its proceeding approving the auction process and by exercising its agreed-upon “direction and control” to achieve the express primary goal of the settlements—“to maximize the realized value of the fossil and hydro generation assets.” *Id.*, lines 459-60.

5. The process employed by the Commission conformed to the Settlements and the Administrative Procedure Act, Chapter 541-A.

6. The adjudicative process utilized by the Commission allowed discovery including written questions submitted to the Auction Advisor (J.P. Morgan) witness, a technical session with that witness, several conference calls, and two rounds of written comments and live on-the-record cross-examination that witness under oath before the PUC Commissioners,.

7. The expedited process appropriately balanced the need for parties to question the auction design offered by the Auction Advisor against the statutory requirement to move quickly and allow the sale of the generation assets to proceed expeditiously.

8. The Municipalities have known since enactment of Senate Bill 221 (2015 N.H. Laws 221) in July, 2015 that there would be an “expeditious” process regarding the divestiture of PSNH’s fossil and hydro generating assets. Given the importance of the divestiture of PSNH’s assets claimed by the Municipalities in their written comments, and the length of time that they have known that an auction is imminent, the Municipalities should have taken actions to prepare for any necessary votes on auction participation.

9. Further delay will jeopardize the success of the auction and irreparably negatively impact the state's economy and electricity consumers via higher electricity costs.

10. For all the foregoing reasons, this Court should reject this appeal because it fails to raise any important issues of law and 'time is of the essence.' RSA 369-B:1, XIV.

WHEREFORE, PSNH respectfully requests that this honorable Court:

- A. Summarily affirm Commission Order Nos. 25,967 and 25,973 approving the auction design recommended by the Commission's auction advisor, J.P. Morgan; or in the alternative,
- B. Decline to accept this appeal; and
- C. Grant such other and further relief as may be just and proper.

Respectfully submitted,

**PUBLIC SERVICE CO. OF NEW HAMPSHIRE
d/b/a EVERSOURCE ENERGY**

January 23, 2017

Date

By: 

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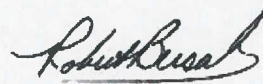
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CERTIFICATE OF SERVICE

Pursuant to Rule 26, I hereby certify that on January 23, 2017, I served the foregoing Motion for Summary Affirmance and accompanying Memorandum of Law by email and by mailing two copies thereof by first class mail to the following:

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