

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 07-108

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

2007 Least Cost Integrated Resource Plan

Order Accepting Integrated Resource Plan

ORDER NO. 24,945

February 27, 2009

APPEARANCES: Gerald M. Eaton, Esq. on behalf of Public Service Company of New Hampshire; Brown, Olson & Gould by David Shulock, Esq. on behalf of Bridgewater Power Company; Orr & Reno by Douglas L. Patch, Esq. on behalf of TransCanada Hydro Northeast, Inc.; August Fromuth on behalf of Freedom Logistics, LLC and Halifax American Energy Company, LLC; Office of Consumer Advocate by Meredith Hatfield, Esq. on behalf of residential ratepayers; F. Anne Ross, Esq. on behalf of Commission Staff.

I. PROCEDURAL HISTORY

On September 28, 2007, Public Service Company of New Hampshire (PSNH) filed its 2007 Least Cost Integrated Resource Plan (LCIRP) pursuant to RSA 378:38. An Order of Notice was issued on January 4, 2008, scheduling a prehearing conference for January 31, 2008. Halifax American Energy Company, LLC (Halifax), Freedom Logistics, LLC (Freedom), TransCanada Hydro Northeast, Inc. and TransCanada Power Marketing, Ltd. (TransCanada), Bridgewater Power Company (Bridgewater), and Constellation Energy Commodities Group, Inc. and Constellation New Energy, Inc. (Constellation) each petitioned to intervene. On January 10, 2008, the Office of Consumer Advocate (OCA) filed notice of its intent to participate on behalf of residential ratepayers pursuant to RSA 363:28. At the prehearing conference, the Commission granted all petitions to intervene.

On March 28, 2008, PSNH supplemented its LCIRP in three areas: Demand Side Management, Supplemental Power Procurement Strategy, and New Generation Supply Options. Staff filed the direct testimony of George R. McCluskey on June 6, 2008. On August 15, 2008, PSNH filed the rebuttal testimony of Terrance J. Large, Gilbert E. Gelineau and Stephen R. Hall.

PSNH filed a series of motions for confidential treatment. On April 7, 2008, PSNH requested that its supply-side work papers regarding the 2007 LCIRP be treated as confidential. Constellation and Bridgewater objected to PSNH's request for confidentiality on April 17, 2008. On May 2, 2008, PSNH filed two motions requesting confidential treatment for forward coal prices and computer models respectively. PSNH filed a motion on May 14, 2008 requesting confidential treatment of a study performed by R.W. Beck on the cost to build biomass power plants and, on May 15, 2008, a motion requesting confidential treatment of certain cost assumptions regarding its Newington Station.

During the course of this docket the parties and Staff conducted discovery and participated in one technical session and four settlement conferences. On October 7, 2008, Staff and some of the parties filed a Partial Settlement Agreement and on October 10, 2008, TransCanada, Freedom and Halifax filed letters regarding additional issues to be presented at hearing. The OCA elected not to sign the Partial Settlement Agreement. Hearing was held on October 14, 2008.

II. POSITIONS OF THE PARTIES AND STAFF

A. PSNH LCIRP

PSNH contends that the information contained in its LCIRP and in the supplements filed on March 28, 2008 satisfies the requirements of RSA 378:38 and is consistent with the partial

settlement approved by Order No. 24,695 (November 8, 2006) in Docket DE 04-072. The following is a summary of the information contained in the LCIRP:

Electrical Energy Demand Forecast:

PSNH describes the methodology and assumptions used to develop short-term and long-term energy and peak demand forecasts and illustrates forecast scenarios based on high and low growth scenarios. The short-term forecasts are used for planning supplemental energy purchases and the long-term forecasts are used for capital additions planning.

Assessment of Demand-Side Programs:

PSNH describes its involvement in conservation and load management (“C&LM”) efforts through the New Hampshire CORE Energy Efficiency programs. In addition to the CORE programs, PSNH describes several demand-side management programs that it offers at the retail level, including the Peak Smart and HEATSMART, as well as demand-side programs offered by ISO-New England at the wholesale level.

Assessment of Supply Options:

PSNH describes its existing generation supply resources and discusses how it meets customers’ energy requirements with a mix of owned resources and supplemental purchases. In addition, PSNH conducted an economic analysis of the supply options it deemed might be appropriate for its system, assuming existing legislation prohibiting such options was amended. The analysis was based on a ranking system that took into account the following criteria:

- (1) Net revenue requirements
- (2) Environmental compliance costs
- (3) Fuel diversity
- (4) Availability at time of system peak
- (5) Promotion of system stability

Assessment of Transmission Requirements:

PSNH describes its own as well as regional transmission systems and indicates who has responsibility for coordination and planning.

Provision for Diversity of Supply Sources:

PSNH explains how its mix of coal, oil, natural gas, hydroelectric, biomass, and IPP supply resources satisfy fuel diversity requirements.

Integration of Demand-Side and Supply-Side Options:

PSNH describes how it analyzed available supply-side and demand-side resource options in order to identify the combination that provides lower costs to customers as compared with pure market purchases.

Assessment of Plan Integration and Impact on State Compliance with the Clean Air Act Amendments of 1990:

PSNH describes its use of fuel switching and emissions allowance management strategies to comply with the federal Clean Air Act Amendments of 1990.

New Hampshire Renewable Portfolio Standard:

The New Hampshire Legislature passed the Renewable Portfolio Standard requiring that a portion of PSNH's electricity supply come from renewable sources. This section describes the RPS requirements and PSNH's strategy for compliance.

Compliance with the National Energy Policy Act of 1992:

The Energy Policy Act ("EPAct") of 1992 added certain provisions to the Public Utility Regulatory Policies Act ("PURPA") of 1978 standards which relate directly to integrated resource planning. This section describes PSNH's compliance with the EPAct in the areas of integrated resource planning and energy efficiency and demand-side management programs.

Assessment of the Plan's Long-term and Short-term Environmental, Economic and Energy Price and Supply Impact on the State:

In addition to the Clean Air Act Amendments of 1990, there have been several federal and state environmental initiatives affecting PSNH's air emissions including sulfur dioxide (SO₂), nitrogen oxide (NO_x), carbon dioxide (CO₂) and mercury (Hg). This section discusses the impact that current and potential federal and state regulations are likely to have on PSNH and its customers.

B. PSNH Rebuttal Testimony

In testimony rebutting Staff's conclusions on the adequacy of the LCIRP, PSNH stated that the Commission should assess the LCIRP in the appropriate context. According to PSNH, differences between itself and Staff are based on a different perception of the purpose and intent of the plan as well as different methodologies used to comply with the requirements for the LCIRP.

Among other things, PSNH argued that its assessment of demand-side resource potential consisted of the development of forecasts of peak load and energy reduction under different program implementation scenarios reflecting a broad range of commercially available energy-efficiency and demand-reduction measures under realistic funding constraints. It further argued that its analysis of a demand response program includes reasonable incremental costs for metering and administration, that avoided transmission and distribution capacity costs were not included as benefits in the analysis because of the contingent nature of demand response and the inclusion of a 15% adder for non-quantified benefits in the TRC test is consistent with the definition of the TRC test authorized by Commission Order 23,574. PSNH also contends that its multi-criteria approach to ranking resource options is justified given the requirement in Order No.24,695 to take into account: (1) the environmental compliance costs of each option, (2) fuel diversity benefits of each option, (3) the availability of each option at the time of system peak, and (4) whether each option will promote price stability. Finally, PSNH argued that the contention that continued unit operation studies should be conducted for the Merrimack and Newington Stations is not consistent with Order No. 24,695 in the previous LCIRP docket.

C. STAFF

In its pre-filed testimony, Staff concluded that PSNH did not perform an assessment of the potential for demand-side resources in its service territory, as required by the partial settlement agreement approved by Order No. 24,695. Staff further noted that information on the technical and economic potential of demand-side resources for New Hampshire should become available in the near future when the consultant hired by the Commission to investigate the potential for energy efficiency in New Hampshire submits its report. Staff recommended that

PSNH use information from that study as the basis of the demand-side assessment in its next LCIRP filing.

Staff claimed that PSNH's conclusion that an ISO-NE administered demand response program should not be implemented at this time is not supported by PSNH's own economic analysis. Staff recommended that the Company undertake a more detailed assessment of demand response programs to determine whether the public interest would be served by offering such a program to large customers. Staff recommended eliminating the benefits adder for environmental externalities included in the cost effectiveness test for demand-side resources.

Staff took the position that the generic cost information provided by PSNH relating to the construction or acquisition of new generation options was deficient in several important respects. First, the revenue requirements estimates for the wind and biomass options leave out the cost of transmission. Second, the revenue requirements estimates for the biomass and peaking plants do not include the cost of land or reflect the need for capital additions. Third, the cost of fuel for the biomass and peaking plants is unrealistic in that PSNH assumed fuel costs would decline in real terms over the plant lives. Fourth, even though the federal Business Energy Tax Credit is due to expire at the end of 2008, and is not currently available to public utilities, the tax credit was included in the revenue requirements for solar PV. Fifth, according to Staff, the method used to rank the new generation options is flawed. Based on these conclusions, Staff argued that the generic cost information does not support giving PSNH the authority to construct or acquire new generation capacity.

Staff suggested that PSNH conduct an analysis to determine whether continued operation of the Merrimack Station is economic relative to market purchases when the costs of installing and operating the scrubber are taken into account. Finally, Staff recommended that PSNH

conduct an analysis to determine whether operation of the Newington Station is economic relative to market purchases based on fuel costs that reflect current forward prices.

III. PARTIAL SETTLEMENT AGREEMENT

In the Partial Settlement Agreement submitted in this docket (Partial Settlement), the settling parties recommended that the Commission find that PSNH's 2007 LCIRP includes the information required by RSA 378:39 and is therefore adequate to the extent required by RSA 378:40 to authorize the Commission to approve changes in PSNH's rates.

The settling parties ask the Commission to clarify that any order accepting the 2007 LCIRP shall not constitute endorsement or approval of the resource options contained in the plan, or of the construction or ownership of new generation by PSNH, nor shall such order establish a precedent or have any binding effect in the event PSNH proposes any future pursuit of any specific resource contained in the plan. Omission of any resource from the 2007 LCIRP shall not preclude PSNH from proposing that resource, unless PSNH is required by law to include such a resource in an LCIRP.

The settling parties agree that PSNH's next LCIRP shall include all of the information specified in the Partial Settlement, as well as the information described in Order No. 24,695 with the understanding that to the extent conflicts arise the terms of the Partial Settlement shall prevail over Order No. 24,695. PSNH agrees to file its next LCIRP one calendar year following final approval of its 2007 LCIRP plan.

The Partial Settlement also contains the following provisions:

A. Demand-Side Resources

1. Analysis of Demand-Side Potential. Consultants hired by the Commission are currently conducting an analysis of the potential for energy efficiency and demand reduction in

New Hampshire. The consultants' final report is intended to show the technical potential, economic potential and market potential for energy efficiency and demand-side management in New Hampshire and in each electric and gas franchise territory. This study is expected to form the basis for the Commission's assessment of demand-side potential for each utility. In its next LCIRP filing PSNH will base its assessment of demand-side resources on the results of the study, applicable to PSNH's franchise area, as amended by the Commission. To the extent PSNH determines that any of the potential demand-side opportunities in the consultants' report are not appropriate for its franchise area, PSNH will explain with supporting documentation or studies (such as cost/benefit analyses), why its demand-side resource plan does not take into account the potential associated with such resource opportunities.

2. Analysis of Demand Response Programs. In its next filing, PSNH will include in its economic analysis of demand response programs, including the ISO-New England Demand Response program, only those incremental capital costs and incremental administrative expenses incurred by PSNH to implement such programs. It is understood and agreed that the installed cost of a meter for large customers in Rate GV and Rate LG are not incremental because the meters currently installed are capable of being modified and reprogrammed in ways that meet program requirements. The prudent costs to modify and reprogram existing meters are understood to be incremental.

In addition, the settling parties agree that PSNH will perform an assessment of the savings in transmission or distribution costs associated with demand response programs and will include the results of the assessment in its next LCIRP filing. The results of the assessment will also be reflected in the economic analysis of the demand response programs included in the next filing.

3. Total Resource Cost Test for Demand-Side Measures. The settling parties agree that the Total Resource Cost test should be used in LCIRP and CORE energy efficiency proceedings to determine the cost effectiveness of energy efficiency and demand response programs. Further, in a supplement¹ to the Partial Settlement, PSNH and Staff agree that the avoided costs used in PSNH's next LCIRP and in CORE Energy Efficiency proceedings should reflect market-based environmental benefits and should not include non-quantified benefits unless otherwise ordered by the Commission.

B. Supply-Side Resources

1. Analysis of Biomass and Wind Units. In its next LCIRP filing, PSNH's economic analysis will include, in addition to the costs included in the 2007 LCIRP, the costs of land, capital additions and transmission costs. PSNH will also provide a fully supported biomass fuel price forecast. The biomass fuel price forecast will include a base case with high and low scenarios. PSNH may also prepare and include a range of land and transmission cost estimates. To the extent there is a specific site or sites under consideration, PSNH may submit the site specific data under a motion for protective order.

2. Analysis of Solar Photovoltaic. In its next LCIRP filing, PSNH will prepare its economic analysis based upon the then existing law concerning tax advantages for utilities. PSNH's analysis will include estimates of operating and maintenance expense for photovoltaic systems including a factor for the degradation in the output of the photovoltaic device over time.

3. Ranking of Supply-side Resource Options. In its next LCIRP filing, PSNH's ranking of supply-side options will be based upon a revenue requirements analysis. Fuel diversity, price stability, transmission stability, and statewide or local economic benefit may be used as tie breakers in the ranking analysis.

¹ Hearing Exhibit 7 filed October 14, 2008.

Given the inclusion of Renewable Energy Certificate (REC) revenues in the revenue requirements calculation for renewable resources and SO₂ and NO_x allowance expenses in the revenue requirements for non-renewable resources, the settling parties agree that when CO₂ emissions costs are internalized in 2009 there is unlikely be a need to develop a ranking process that treats environmental impacts separately from revenue requirements. In addition, the settling parties agree that the inclusion of forward capacity market credits in the revenue requirements calculation eliminates the need to consider availability at system peak as a separate and independent criterion in the ranking process.

In order to rank projects that serve different purposes or differ in size, the settling parties agree that the ranking process will be based on the ratio of net revenue requirements to market purchases for each option, with both quantities expressed in net present value terms. Projects with ratios less than one would be deemed economic relative to market purchases. Those with lower ratios would be viewed as having greater value to customers per dollar of expenditure than those with higher ratios and hence would be ranked higher.

4. Merrimack Continued Unit Operation Study. Given the Commission's decision to open a docket to investigate issues related to the installation of scrubber technology at Merrimack Station, the settling parties agree, pending the outcome of that investigation, to withhold further comment in this proceeding on the Merrimack continuing unit operation issue.

5. Newington Operational Analysis. In its next LCIRP filing, PSNH's operational analysis of the Newington unit will be based on the forward price of fuel oil.

6. Wholesale Price Forecast. The settling parties agree that the wholesale price forecasts will be based on a production cost simulation model whenever such forecasts are used to justify significant investment decisions. In addition, natural gas prices used in the development of

wholesale price forecasts, to justify significant investment decisions or otherwise, will reflect historical price differences between the market delivery point chosen as the basis of the forecast and the appropriate delivery point in New England.

IV. ADDITIONAL ISSUES AT HEARING

At hearing, TransCanada, Freedom and Halifax questioned PSNH witnesses concerning PSNH's decision not to include divestiture and retirement of the Merrimack Station generating facility as options in its supply-side assessment. PSNH stated that such issues are governed by RSA 369-B:3-a and are not required as part of an LCIRP based upon Order No. 24,695. Nevertheless, TransCanada, Freedom and Halifax recommended in their closing statements that the Commission require PSNH to do a continuing operation study as well as analysis of divestiture in the next LCIRP. The intervenors argued that requiring PSNH to analyze new generation options without also looking at retirement or divestiture of existing generation was contrary to the basic principles of least cost planning.

The OCA opposed the position of PSNH and Staff that "non-quantified benefits" (i.e., environmental and other benefits) be excluded from the Total Resource Cost test used to determine the cost effectiveness of demand-side resources. The OCA argued that any change in the adder should be made in a CORE energy efficiency docket rather than in PSNH's LCIRP docket. The OCA also argued that PSNH ought to conduct a continuing operations study on Merrimack station due to the increased costs of the proposed scrubber project as well as increases in other environmental compliance costs.

V. COMMISSION ANALYSIS

A. Adequacy of 2007 LCIRP

RSA 378:39 requires us to evaluate an electric utility's proposed integrated least cost resource plan in order to "evaluate the adequacy of [the] utility's planning process." Although

some aspects of the retail electric market in New Hampshire have changed as a result of the restructuring of the electric utility industry, RSA 374-F, PSNH retains its fossil and hydro generation facilities and continues to supply power to its customers through those facilities. RSA 369-B:3-a. As a result, the primary objective of an integrated least cost resource plan for PSNH remains the same: namely, to develop and implement an integrated resource plan that satisfies customer energy service needs at the lowest overall cost consistent with maintaining supply reliability. *See Public Service Co. of New Hampshire*, 73 NH PUC 117, 126 (1988).

In addition to the general LCIRP requirements found in RSA 378:38, in PSNH's last LCIRP proceeding PSNH was directed to address some specific issues in its next LCIRP:

- (1) electric energy and demand forecast for delivery and energy services under high, low and base case scenarios;
- (2) the resource balance over the planning period, including an assessment of PSNH's base-load, intermediate and peaking needs;
- (3) a systematic evaluation of reasonably available demand-side resources plus a description of the avoided cost methodology and associated avoided cost forecast used for evaluation purposes;
- (4) generic cost information relating to the construction or acquisition of new generation capacity;
- (5) a description of the process (including the results of any evaluations) used by PSNH, to select the mix of demand-side and supply-side resources included in the resource plan; and
- (6) the resource plan with which PSNH proposes to fill the resource balance at the lowest cost. Order No. 24,695 (November 8, 2006) at 24.

Based on our review of its filing, and in light of the Partial Settlement Agreement, we find PSNH's 2007 LCIRP to be adequate for purposes of RSA 38:39 and :40, and generally compliant with Order No. 24,695. Nevertheless, we provide further guidance below regarding PSNH's next LCIRP, which we direct PSNH to file one year from the date of this order.

B. Modifications Required in Next LCIRP Filing

1. Analysis of Demand-Side Potential. In its next LCIRP, PSNH shall base its assessment of demand-side resources on the results of the report on “Additional Opportunities for Energy Efficiency in New Hampshire” by GDS Associates, the consultant hired by the Commission to investigate the potential for energy efficiency in New Hampshire, subject to updates and amendments to the data which may be subsequently undertaken at the PUC. We note that the study identified thermal energy storage for air conditioning loads as a potential demand side measure to reduce peak loads, but it did not analyze the costs or benefits of such. PSNH should assess commercially available off-peak cooling with thermal energy storage as a potential demand-side resource as part of their next LCIRP and should also consider other energy storage technologies as they emerge as commercially viable options to meet various electric system needs. PSNH should also use the latest available avoided energy supply cost study for New England in its next LCIRP. To the extent PSNH determines that any of the potential demand-side opportunities in the consultants’ report are not appropriate for its franchise area, we direct PSNH in its next LCIRP to explain with supporting documentation or studies (such as cost/benefit analyses), why its demand-side resource plan does not take into account the potential associated with such resource opportunities.

2. Analysis of Demand Response Programs. In its next LCIRP, PSNH shall include in its economic analysis of demand response programs only those incremental capital costs and incremental administrative expenses incurred by PSNH to implement such programs. In its next LCIRP PSNH shall perform an assessment of the savings in transmission or distribution costs associated with demand response programs. The results of the assessment will also be reflected in the economic analysis of the demand response programs included in the next filing.

3. Total Resource Cost Test for Demand-Side Measures. We will continue our policy of not including environmental adders in the Total Resource Cost test used to determine the cost effectiveness of energy efficiency and demand response programs, with the exception of calling for a sensitivity analysis using a higher than market cost of CO₂. See Order No. 24,695 at 27. We base this decision on the fact that the major costs of power plant emissions (NO_x, SO₂, Mercury and CO₂) are already included in the avoided costs that underlie the cost effectiveness test for Core energy efficiency programs. Including an adder that reflects the benefits of reducing these emissions would amount to overstating the benefits of energy efficiency, potentially resulting in the adoption of programs that in reality are uneconomic. However, the most recent avoided energy supply cost study for New England only internalizes the projected trading price of carbon allowances under anticipated regulations in projected electricity supply costs. The study notes that the value of CO₂ based on sustainability targets is quite a bit higher and that anticipated regulations are only gradually incorporating climate externalities. We direct PSNH to do a sensitivity analysis of the Total Resource Cost test using a reasonable forecast of the full cost of CO₂ using climate sustainability targets for CO₂ to identify those options that may be robust under both scenarios and others that may make sense under one scenario but not the other. Regarding non-environmental benefits of reduced consumption, we do not believe it would be appropriate to consider any alternative to our policy absent identification of these “other benefits” and development of reasonable estimates of the costs to consumers of not reducing usage further.

4. Supply-side Analysis of Biomass and Wind Units. In its next LCIRP filing, PSNH’s economic analysis shall include, in addition to the costs included in the 2007 LCIRP, the costs

of: land; capital additions; and transmission. PSNH will also provide a fully supported biomass fuel price forecast with base case, high and low scenarios.

5. Supply-side Analysis of Solar Photovoltaic. In its next LCIRP filing, PSNH shall prepare its economic analysis based upon existing tax law applicable to utilities. PSNH's analysis will include estimates of operating and maintenance expense including a factor for the degradation in the output of the photovoltaic device over time.

6. Ranking of Supply-side Resource Options. As market CO₂ emissions costs are internalized in 2009 there is less of a need to develop a ranking process that treats environmental impacts separately from revenue requirements. In its next LCIRP filing, PSNH's ranking of supply-side options shall be based upon a revenue requirements analysis. However, PSNH is directed to prepare a sensitivity analysis of supply-side resource options using a reasonable forecast of the full cost of CO₂ using climate sustainability targets for CO₂, as discussed in paragraph 3 above concerning the Total Resource Cost Test for Demand-Side Measures, to help understand how full internalization of potential CO₂ costs might change the ranking of options. Fuel diversity, price stability, transmission stability, and statewide or local economic benefit may be used as tie breakers in the ranking analysis. The inclusion of forward capacity market credits in the revenue requirements calculation eliminates the need to consider availability at system peak as an independent criterion in the ranking process. In order to rank projects that serve different purposes or differ in size, the ranking process will be based on the ratio of net revenue requirements to market purchases for each option, with both quantities expressed in net present value terms.

7. Merrimack Continued Unit Operation Study.

Early retirement of existing power plants for economic reasons is a practical option for utility planners if continued operation entails the expenditure of significant investment dollars. For this reason, we will require PSNH to include in future LCIRPs an economic analysis of retirement for any unit in which the alternative is the investment of significant sums to meet new emissions standards and/or enhance or maintain plant performance. PSNH will not, however, be required to include an analysis of divestiture in its next LCIRP as set forth in Order No. 24,695.

8. Newington Operational Analysis. In its next LCIRP, PSNH's operational analysis of the Newington unit shall be based on the forward price of fuel oil.

9. Wholesale Price Forecast. In its next LCIRP, PSNH's wholesale price forecasts will be based on a production cost simulation model whenever wholesale price forecasts are used to justify significant investment decisions. In addition, natural gas prices used in the development of wholesale price forecasts will reflect historical price differences between the market delivery point chosen as the basis of the forecast and the appropriate market delivery point in New England.

10. In General. In light of the emerging commercialization of plug-in electric vehicles and national public policy discussions about encouraging the production and deployment of electric vehicles, including hybrids, we direct PSNH to explicitly consider the implications of potential plug-in electric vehicle market penetration in their next LCIRP.

C. PSNH Motions for Confidential Treatment

Pursuant to RSA 91-A:5, IV and N.H. Code Admin. Rules Puc § 203.08, PSNH requests confidential treatment for: (1) supply-side work papers; (2) forward coal prices; (3) computer models to estimate revenue requirements; (4) a study by R W Beck of biomass plant costs; and (5) Newington cost assumptions.

The New Hampshire Right-to-Know Law provides each citizen with the right to inspect all public records in the possession of the Commission. *See* RSA 91-A:4, I. The statute contains an exception, invoked here, for "confidential, commercial, or financial information." RSA 91-A:5, IV. In *Union Leader Corp. v. New Hampshire Housing Finance Authority*, 142 N.H. 540 (1997), the New Hampshire Supreme Court provided a framework for analyzing requests to employ this exception and to shield from public disclosure documents that would otherwise be deemed public records. There must be a determination of whether the information is confidential, commercial or financial information "*and* whether disclosure would constitute an invasion of privacy." *Id.* at 552 (emphasis in original, citations omitted). "An expansive construction of these terms must be avoided," lest the exemption "swallow the rule." *Id.* (citations omitted). "Furthermore, the asserted private confidential, commercial, or financial interest must be balanced against the public's interest in disclosure, . . . since these categorical exemptions mean not that the information is *per se* exempt, but rather that it is sufficiently private that it must be balanced against the public's interest in disclosure." *Id.* at 553 (citations omitted).

Puc 203.08 is designed to facilitate the use of this balancing test. We require a motion for confidentiality to contain (1) the specific documents or portions thereof for which confidential treatment is sought, (2) reference to statutory or common law authority favoring confidentiality, (3) a description of the harm that would result from disclosure. Puc 203.08(b).

(1) Supply-Side Work Papers

These work papers were provided to Staff in response to data request TS-01 Q-TS-001 and contain data supporting PSNH's economic evaluation of several generation resource options that were included in the LCIRP. PSNH specifically seeks protection for the analysis and data

behind those evaluations. PSNH states that such data and analysis took substantial time to develop and if disclosed would harm PSNH competitively.

We will deny PSNH's request for confidential treatment of the economic analysis used to evaluate the generation options because we find that PSNH has not demonstrated competitive harm as a result of disclosure, inasmuch as the resources involved provide a regulated service. We will also deny PSNH's request for confidential treatment of the data used in the analysis. PSNH argues that such data "were the result of significant effort by many individuals throughout the Company. Reproduction of this material would be very time consuming and involve substantial resources." The data, however, has already been assembled and presented to Staff in the form of a data response. Presenting this information to other parties involves no more work than making an electronic copy and attaching it to an e-mail. In addition, we conclude that the concern that the Company would be competitively disadvantaged by making the information generally available is diminished by the fact that the data is not site specific and is used to support PSNH's planning process rather than an actual investment decision.

(2) Forward Coal Prices

The coal price projection was provided to Staff in data response to Staff 1-21. PSNH alleges that the price projection is confidential commercial information which is exempt from disclosure under RSA 91-A:5, IV. In support of its motion, PSNH says that making the information publicly available would put it at a disadvantage with respect to negotiating future purchases with coal suppliers. We find that PSNH has made the requisite showing to justify confidential treatment of its coal price projection and we grant the pending motion for confidential treatment.

(3) Computer Models

Excel spreadsheets containing the data and formulae used in computer models to estimate the revenue requirements associated with several generation resource options were provided to Staff as attachments to discovery responses. PSNH alleges that the electronic version of this data is confidential commercial information which is exempt from disclosure under RSA 9 1-A: 5, IV. We will deny PSNH's request on the ground that the data and formulae underlying the spreadsheets are the same data and formulae contained in the supply-side work papers addressed above. Further, the fact that the data and formulae are part of a functioning electronic model which can be manipulated to produce different results with different inputs does not place PSNH at a greater competitive disadvantage than if the same information were provided in hard copy.

(4) R.W. Beck Study

R.W. Beck was hired by PSNH to conduct a study of the relative economics of a 50 megawatt biomass plant versus a 25 megawatt plant. On May 14, 2008, PSNH filed a motion requesting confidential treatment of that study. PSNH alleges that the external study is confidential commercial and financial information which is exempt from public disclosure under RSA 91-A:5, IV. Specifically, PSNH says that R.W. Beck sought bids from several major component manufacturers who supplied bids on a confidential basis. Beck subsequently included the bids in the study supplied to PSNH. We find that PSNH has made the requisite showing to justify confidential treatment of the Beck study. For this reason, the pending motion for confidential treatment is granted.

(5) Newington Cost Assumptions

PSNH seeks to protect its assumptions and adders used to compute the cost of running its Newington generation station. PSNH claims that it will be competitively disadvantaged if other

electric suppliers can estimate the cost to run Newington. Such knowledge would allow competitive suppliers to set prices just below the Newington dispatch cost and potentially higher than they would price power absent that information, thus harming PSNH customers. We find that PSNH has made the requisite showing to justify confidential treatment of the Newington assumptions and adders. For this reason the pending motion for confidential treatment is granted.

Based upon the foregoing, it is hereby

ORDERED, that Public Service Company of New Hampshire's revised Least Cost Integrated Resource Plan filed September 28, 2007 and supplemented on March 28, 2008 is accepted; and it is

FURTHER ORDERED, that the Partial Settlement Agreement filed in this proceeding is approved subject to the changes made herein; and it is

FURTHER ORDERED, that Public Service Company of New Hampshire file its next least cost integrated resource plan on or before February 28, 2010, consistent with the determinations made herein; and it is

FURTHER ORDERED, that the motions for confidential treatment submitted by Public Service Company of New Hampshire on April 7, 2008, May 2, 2008 and May 14, 2008 are GRANTED in part and DENIED in part as set forth herein.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day
of February, 2009.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Kimberly Nolin Smith
Assistant Secretary