

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 10-121

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Reconciliation of 2009 Energy Service and Stranded Cost Recovery Charges

Order Denying Motion to Compel

ORDER NO. 25,137

August 12, 2010

On April 30, 2010, Public Service Company of New Hampshire (PSNH) filed its proposed 2009 reconciliation of energy service and stranded cost recovery charges. New Hampshire Sierra Club (NHSC) was granted discretionary intervention, pursuant to RSA 541-A:32, II. In granting the intervention requests of NHSC and others, the Commission set forth the scope of the docket, in particular, that it addresses revenues and expenses in 2009 associated with energy service, generation and purchased power, and stranded cost recovery charges. The Commission made clear that this is a reconciliation and not a forward-looking docket; nor is it a docket to consider environmental issues associated with PSNH's generation facilities. *See* Order No. 25,132 (July 20, 2010). The parties and Staff are now engaged in discovery in the form of written data requests and responses. This order addresses a discovery dispute between NHSC and PSNH.

On July 16, 2010, in accordance with the procedural schedule, NHSC served on PSNH 13 Data Requests. PSNH, on July 23, 2010, objected in whole or in part to all but one of them, pursuant to N.H. Code Admin. Rule Puc 203.09(g). In response, NHSC filed a Motion to Compel, pursuant to Puc 203.09(i). On August 3, 2010, PSNH objected pursuant to Puc 203.07(e). Though not contemplated by the Commission's administrative rules, we accepted a

Reply filed by NHSC on August 5, 2010. In its Reply, NHSC withdrew its Motion to Compel as to Data Requests 1, 2, 3, 5, 7 and 8 and renewed its arguments as to Data Requests 4, 6, 9, 10, 11 and 13, as follows:

Data Request 4 asks for information regarding the operation, maintenance and capital costs for selective catalytic recovery systems for control of nitrogen oxides (NO_x) at Merrimack Station for 2009 and for the next 5, 10 and 40 years. It also asked for PSNH's opinion regarding the degree of regulation of NO_x that may be required by administrative, judicial, state and federal authorities in the future. PSNH agreed to provide cost data for 2009 and otherwise objected to the request as beyond the scope of this docket. NHSC asserted that NO_x control is "a particularly demanding problem for PSNH" and thus "prudence demands that the costs for NO_x control be part of the reconciliation process" and identified 5, 10 and 40 years out.

Data Request 6 asks for information regarding the operation, maintenance and capital costs for electrostatic precipitator systems for control of particulate matter at Merrimack Station for 2009 and for the next 5, 10 and 40 years. It also asked for PSNH's opinion regarding the degree of regulation of particulate matter that may be required by administrative, judicial, state and federal authorities in the future. PSNH agreed to provide cost data for 2009 and otherwise objected to the request as beyond the scope of this docket. PSNH also argued that the question called for speculation on the part of PSNH regarding future legislation. As in Data Request 4, NHSC asserted that "prudence demands that the operational, maintenance and capital costs be identified in the reconciliation process and be properly budgeted 5, 10 and 40 years out."

Data Request 9 asks for information regarding the operation, maintenance and capital costs for mercury emission control equipment at Merrimack Station in 2009 and for the next 5, 10 and 40 years. It also asks for PSNH's opinion regarding the degree of regulation of mercury

that may be required by administrative, judicial, state and federal authorities in the future, citing in particular RSA 125-O and the maximum achievable control technologies required by the Clean Air Act. PSNH agreed to provide cost data for 2009 and otherwise objected to the request as beyond the scope of the docket. PSNH also argued the question called for speculation on the part of PSNH regarding future legislation. NHSC stated a concern that the scrubber technology will not be successful and that “prudence demands that PSNH fully disclose the costs associated with [mercury] control in the 2009 reconciliation process and be properly budgeted 5, 10 and 40 years out.”

Data Request 10 asks for information regarding PSNH’s coal purchasing plans if in the future Merrimack Station does not achieve 80% reduction in mercury emissions and fuel costs for any change in the type of coal that might be purchased. PSNH agreed to provide cost data for 2009 and otherwise objected to the request as beyond the scope of the docket. PSNH also stated the question called for speculation on the part of PSNH regarding fuel composition before the control equipment has been completed and tested. NHSC asserted the “prudence demands that the cost of coal be fully disclosed and that expected costs be properly budgeted 5, 10 and 40 years out.”

Data Request 11 asks for information regarding PSNH’s coal purchasing plans if in the future Merrimack Station does not achieve 90% reduction in sulfur dioxide emissions and fuel costs for any change in the type of coal that might be purchased. PSNH objected to the request in full, on the basis that the request was beyond the scope of the docket. PSNH also stated the question called for speculation on the part of PSNH regarding fuel composition before the control equipment has been completed and tested. NHSC asserted that “the need to examine the information requested by Data Request 11 is evident.”

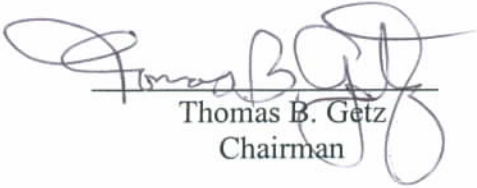
Data Request 13 asks for PSNH to explain why the public good is served by payment of “substantial O&M and capital costs for this 50 year old coal fired power plant for environmental compliance . . . financed by first mortgage bonds with up to a 40 year maturity” PSNH objected to the request in full, on the basis that the request was beyond the scope of the docket. PSNH also argued that NHSC was attempting improperly to seek information regarding DE 10-122, the PSNH financing docket in which the Commission denied NHSC’s request to intervene. NHSC asserted that the reconciliation and financing dockets, though separate, “have a direct bearing on the other” and that Data Request 13 addresses “the interplay between the annual reconciliation process and the pending *Easton* review”. The Commission, therefore, should “order a comprehensive response to Data Request 13.”

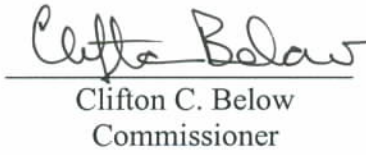
The six Data Requests at issue call for matters that are not within the scope of this docket, which is limited to a reconciliation of costs associated with revenues and expenses due to generation and power purchases during 2009. As we made clear in Order No. 25,132, this docket focuses on the review of costs and expenses that occurred during 2009. A reconciliation docket does not involve speculation regarding future legislative, judicial or regulatory standards, nor does it project future costs and expenses. The Motion to Compel, therefore, is denied.

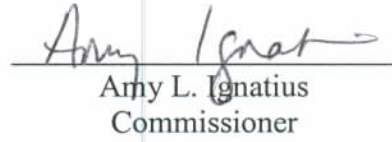
Based upon the foregoing, it is hereby

ORDERED, that the New Hampshire Sierra Club’s Motion to Compel responses to Data Requests 4, 6, 9, 10, 11 and 13 is DENIED.

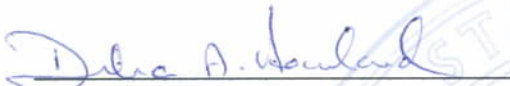
By order of the Public Utilities Commission of New Hampshire this twelfth day of
August, 2010.


Thomas B. Getz
Chairman


Clifton C. Below
Commissioner


Amy L. Ignatius
Commissioner

Attested by:


Debra A. Howland
Executive Director

