

**NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 12-116**

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE**

**Reconciliation of Energy Service and Stranded Costs for Calendar Year 2011**

**Order Following Hearing**

**ORDER NO. 25,466**

**February 27, 2013**

**APPEARANCES:** Matthew J. Fossum, Esq. on behalf of Public Service Company of New Hampshire; the Office of Consumer Advocate by Susan W. Chamberlin, Esq. on behalf of residential ratepayers; and Suzanne G. Amidon Esq. on behalf of Commission Staff.

**I. PROCEDURAL HISTORY**

On May 1, 2012, Public Service Company of New Hampshire (PSNH or Company) filed testimony with related schedules in support of a proposed reconciliation of revenues and costs associated with its stranded cost recovery charge (SCRC) and its energy service (ES) charge for calendar year 2011. The SCRC is the mechanism by which PSNH recovers certain restructuring-related stranded costs as allowed under the Agreement to Settle PSNH Restructuring (Restructuring Agreement) approved by the Commission in 2000.<sup>1</sup> PSNH recovers the cost of providing power from its generating units and supplemental power purchases through its ES charge.

In *Public Service Co. of N.H.*, Order No. 24,125 (February 14, 2003) 88 NH PUC 65, the Commission approved a settlement agreement that implemented PSNH's initial SCRC reconciliation, which covered the period from May 1, 2001 (the date on which the PSNH service territory was opened to retail competition among energy suppliers under the

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<sup>1</sup> See, *PSNH Proposed Restructuring Settlement*, Order No. 23,443 (April 19, 2000) 85 NH PUC 154, Order No. 23,549 (September 8, 2000) 85 NH PUC 536 and Order No. 23,563 (September 29, 2000) 85 NH PUC 645.

Restructuring Agreement) through December 31, 2001. The Commission directed PSNH to submit, on or before May 1 of each subsequent year, its proposed reconciliation of the previous calendar year's SCRC and transition service and default service revenues and costs.

Subsequent to Commission approval of the Restructuring Agreement, PSNH continued to recover costs related to the generation and delivery of electricity, but delivery costs were further segmented for ratemaking purposes. Thus, PSNH's customers now pay a distribution charge, a transmission charge and an SCRC charge. In addition, customers purchasing their energy supply from PSNH pay a default energy service charge, referred to by PSNH as "energy service."<sup>2</sup>

Previously, the difference between revenues and costs associated with providing transition energy service and default energy service had been calculated and included as an adjustment to PSNH's Part 3 stranded costs. Pursuant to the Restructuring Agreement, Part 3 stranded costs were those stranded costs for which PSNH undertook some risk of non-recovery. As of June 30, 2006, PSNH had recovered all of its Part 3 stranded costs and the Commission approved a reduction to the Company's SCRC to reflect that development. *See, Public Service Co. of N.H.*, Order No. 24,641 (June 30, 2006) 91 NH PUC 295. In a prior order, the Commission had determined that once Part 3 stranded costs had been fully recovered, the difference between revenues collected and prudently incurred costs associated with default service would be reconciled in the energy service rate. *Public Service Co. of N.H.*, Order No. 24,579 (January 20, 2006) 91 NH PUC 17. The costs at issue in the ES reconciliation are those of owning, operating and maintaining PSNH's generating assets,

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<sup>2</sup> Default service is "electricity supply that is available to retail customers who are otherwise without an electricity supplier." RSA 374-F:2, I-a. The Commission authorized electric utilities to refer to their default service simply as "energy service" in Order No. 24,614, (April 13, 2006). *See, Granite State Electric Co. et al.*, 91 NH PUC 173 (2006).

certain costs related to purchases from independent power producers (IPPs), and the cost of purchases and revenues from sales of energy made in the wholesale market.

On May 7, 2012, the Commission filed an Order of Notice scheduling a prehearing conference for June 5, 2012. Also on May 7<sup>th</sup>, The Office of Consumer Advocate (OCA) filed a letter of participation. On May 31, 2012, TransCanada Power Marketing Ltd. and TransCanada Hydro Northeast Inc. (collectively, TransCanada) filed a petition to intervene to which PSNH objected on June 5, 2012.

On June 7, 2012, Staff filed a letter proposing a procedural schedule for the proceeding and the hearings examiner filed a report of the prehearing conference. The Commission, on June 18, 2012, issued Order No. 25,375 granting TransCanada's petition to intervene and defining the scope of the proceeding. The Commission issued secretarial letters on July 3 and October 11, 2012 making revisions to the procedural schedule.

Pursuant to the procedural schedule, Staff filed the direct testimony of Michael D. Cannata, Jr. of the Accion Group, Inc. (Accion) on behalf of Staff on October 26, 2012. On December 26, 2012, PSNH filed a Stipulation and Settlement Agreement (Settlement Agreement) signed by PSNH and Staff. The Commission held a hearing on the Settlement Agreement on January 16, 2013. TransCanada did not participate in the hearing.

## **II. POSITIONS Re: PSNH's INITIAL FILING**

### **A. Public Service Company of New Hampshire**

In prefiled testimony, PSNH witness Robert A. Baumann, Director of Revenue Regulation and Load Resources for Northeast Utilities Service Company (NUSCO) provided an overview of the reconciliation between the revenues and expenses as reported in PSNH's ES and SCRC filings for the twelve-month reporting period from January 1 through December

31, 2011.<sup>3</sup> Mr. Baumann explained that ES costs include the fuel costs associated with PSNH's generating units as well as costs and revenues from energy and capacity purchases and sales, New Hampshire Electric Renewable Portfolio Standard compliance costs (RSA Chap. 362-F), Regional Greenhouse Gas Initiative (RGGI) costs (RSA 125-O:19-28) and IPP power valued at market prices. In addition, ES costs include the non-fuel costs of generation including non-fuel operation and maintenance (O&M) costs, depreciation, property and payroll taxes, uncollectible costs attributable to ES sales, and a return on net generation investment. Mr. Baumann testified that all of these costs are associated with PSNH's ownership of generation.

According to Mr. Baumann, during the period from January 1 through December 31, 2011, ES costs exceeded revenues by \$13.3 million. \$13.1 million of the under-recovery relates to the deferral of costs of the wet flue gas desulfurization system (Scrubber) at Merrimack Station which were incurred from September 28, 2011 through December 31, 2011, but which were not approved by the Commission for inclusion in 2011 ES rates. Mr. Baumann testified that the Scrubber costs relate to the return on the Scrubber, rate base, depreciation, property tax, Scrubber-related O&M, fuel and avoided SO<sub>2</sub> costs as of September 28, 2011. The Company is not seeking approval of those costs in this docket. Mr. Baumann noted that the Commission opened Docket No. DE 11-250 to investigate the costs of the Scrubber and the Company's recovery of those costs. Although the Commission approved a temporary Scrubber cost recovery rate in that docket,<sup>4</sup> the revenues associated with the temporary rate are not reflected in this filing because they were not approved during the reporting period.

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<sup>3</sup> NUSCO provides services to Northeast Utilities' affiliates, including PSNH.

<sup>4</sup> See, Order No. 25,346 (April 10, 2012) in Docket DE 11-250 (Order on Temporary Rates).

Mr. Baumann testified that the SCRC recovers costs categorized as “stranded” by RSA Chap. 374-F and Chap. 369-B. Mr. Baumann explained that while PSNH’s stranded costs initially consisted of three types of costs (Parts 1, 2 and 3), only Parts 1 and 2 remain. Part 1 costs are those that have been securitized through the issuance of rate reduction bonds (RRBs) and consist of the over-market portion of Seabrook regulatory assets, a portion of PSNH’s share of Millstone 3, and certain financing costs that were incurred in the procurement of the RRB financing. The Company projects that Part 1 recovery will end in May 2013 when the RRBs will have been fully amortized.

Mr. Baumann testified that Part 2 stranded costs include “ongoing” costs consisting of the over-market value of energy purchased from IPPs, the up-front payments made for IPP buy-downs and buy-outs previously approved by the Commission, PSNH’s share of the present value of the savings associated with those buy-down and buy-out transactions, a negative return on the credit for deferred taxes related to the Part 1 securitized stranded costs, and a return on the unpaid contract obligations to certain regional Yankee Atomic nuclear plants, net of deferred taxes. Mr. Baumann said that Part 2 costs have decreased and will continue to decrease as the IPP rate orders expire. For the period January 1 through December 31, 2011, Mr. Baumann said that the SCRC resulted in a net under-recovery of \$1.5 million. He attributed the under-recovery to higher than forecasted above-market IPP costs.

PSNH witness Frederick B. White, Supervisor of the Wholesale Power Contracts department at NUSCO, described how PSNH’s generation resources and supplemental purchases were used to meet PSNH’s energy and capacity requirements over the period January 1 through December 31, 2011. Mr. White explained that, as a load-serving entity, PSNH is responsible for maintaining sufficient energy to meet the hourly needs of its

customers and sufficient capacity available to satisfy its share of the Independent System Operator- New England (ISO-NE) capacity requirements. He said that PSNH meets its requirements through its owned generation, purchases mandated by the Public Utility Regulatory Policy Act (PURPA) under short term rates and long term rate orders, and through supplemental purchases of energy and capacity from the market.

Mr. White testified that, as of December 2011, PSNH's generation resource portfolio comprised the following resource groups: hydroelectric (61 megawatts (MW) from nine stations, nuclear (20 MW from the Vermont Yankee purchased power arrangement), coal and wood (589 MW from Merrimack and Schiller), gas/oil (419 MW from Newington and Wyman 4), combustion turbines (83 MW from five units), and non-utility generation (33 MW from numerous PURPA-mandated purchases and 20 MW from one IPP buy-out replacement contract). PSNH also serviced a portion of its customers' energy requirements via a unit-contingent power purchase agreement (Lempster Wind).

Mr. White stated that, on average, PSNH met 63% of on-peak period energy requirements and 69% of off-peak period energy requirements with its owned generation resources during calendar year 2011. According to Mr. White, PSNH does not own sufficient generating capability to supply all of its customers' energy needs and any unmet requirements for 2011 were satisfied through bilateral or spot market purchases through ISO-NE. He explained that spot market purchase needs change hourly and can range from none to a significant amount, depending on the availability of PSNH's resources, the level of demand, the migration of customers to competitive energy service options and the relative economics of PSNH's generation versus purchase alternatives. In 2011, the combined expense for all supplemental energy purchases was \$103.8 million.

Mr. White testified that PSNH also experienced hours where its supply resources exceeded its customers' energy needs. For those hours, PSNH sold excess energy into the ISO-NE spot market. The total combined revenue for all surplus energy sales was \$12.6 million.

Regarding PSNH's capacity requirements for the period January 1 through December 31, 2011, Mr. White testified that approximately 87% of PSNH's capacity needs were met with generation resources, including PSNH-owned assets, non-utility IPPs, the Vermont Yankee purchase power agreement, and the Hydro-Quebec Interconnection Capacity Credits. The remaining 13% was procured through ISO-NE at a total net cost of \$10.1 million. Also during 2011, PSNH's owned resources provided 13,083 MW-months of capacity to ISO-NE which created over \$45.1 million in revenue credited to the ES rate.

According to Mr. White, PSNH participated in auctions for financial transmission rights (FTR) as a method of hedging the congestion price differential between its major fossil stations (Merrimack, Schiller and Newington) and the New Hampshire load zone. Mr. White explained that an FTR is a financial instrument available to ISO-NE participants seeking to manage congestion costs or those wishing to speculate on the difference in congestion between two locations. According to Mr. White, in 2011 PSNH procured at auction 1,605 gigawatt-hours (GWh) of FTRs at a net cost of \$15,896. After taking into account congestion charges of \$6,664, the FTRs resulted in an additional ES expense of \$22,560.

William H. Smagula, Director of Generation for PSNH, provided testimony regarding the performance of PSNH's generating units during 2011 including information on all outages that took place at PSNH's fossil-fired, hydroelectric and biomass units, and those at NextEra Energy Resources LLC's Wyman Station Unit No. 4 in Maine, of which PSNH is a minority

owner. He testified that PSNH's generating units provided total generation in 2011 equal to 3,000,948 MWh and that the fleet's availability was 95.6% during the 30 highest-priced days when customer's exposure to high market prices was the greatest. Mr. Smagula also testified that Merrimack Station Units 1 and 2 each completed scheduled outages to perform routine maintenance and to complete the tie-in with the Scrubber, and that Schiller Unit 5, which is fired by biomass, completed a run of 113 consecutive days, the second longest run in its 5 years of operation, and produced 298,105 MWh in 2011. In total, the three units at Schiller Station collectively generated 526,996 MWh in 2011. According to Mr. Smagula, PSNH's hydroelectric facilities generated 365,071 MWh in 2011, and Newington Station completed the year with 83.6% equivalent availability. Mr. Smagula said that PSNH's generation division continued to focus on safe, compliant, reliable and cost-effective operations and management of the generation fleet.

Mr. Smagula provided a list of unplanned outages that took place during the period January 1 through December 31, 2011. In addition, Mr. Smagula provided outage reports for all unscheduled outages in excess of two days at either Newington Station or at the two units at Merrimack Station, and in excess of four days at the three units at Schiller Station and at Wyman Unit 4. PSNH also provided the planned outage schedule for Staff's review as is customary in the reconciliation dockets. Finally, in connection with the Stipulation and Settlement Agreement approved in PSNH's 2010 reconciliation docket, the Company provided documentation of its compliance with the stipulated agreements.<sup>5</sup>

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<sup>5</sup> See Order No. 25,321 (January 16, 2012) in Docket No. DE 11-094.



## **B. Commission Staff**

Staff, through its consultant, Mr. Cannata, filed testimony on PSNH's power procurement activities and the operation of its generating units based on his investigation of PSNH's capacity and energy transactions in 2011 and the operation of its generating assets and unit entitlements.

In general, Mr. Cannata concluded that PSNH made sound and prudent management decisions with regard to its capacity and energy purchases consistent with its "2010 Least Cost Integrated Resource Plan".<sup>6</sup> Mr. Cannata concluded that PSNH made progress in making short-term sales of excess energy and capacity. Mr. Cannata also testified that PSNH had recently modified energy procurement procedures to govern supplemental energy purchases and that PSNH continued to focus on the short-term purchases as agreed to in Docket DE 11-094. According to Mr. Cannata, the net cost to customers for supplemental energy purchases decreased from \$217.0 million in 2009 to \$91.4 million in 2011.

Mr. Cannata also reviewed PSNH's energy and capacity transactions, conducted an on-site interview with personnel responsible for the capacity and energy transaction function at PSNH, requested follow-up information, and reviewed detailed backup information of the summary results provided by PSNH. Based on his review, Mr. Cannata concluded that PSNH's capacity factor projections used in 2011 were reasonable. Mr. Cannata also stated that he was satisfied with the manner in which PSNH modeled its reliability outages for 2011 and incorporated the impact of economic reserve status in its forecasts.

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<sup>6</sup> At the time of the hearing, PSNH's most recently approved least cost integrated resource plan (LCIRP) had been filed in Docket No. DE 07-108 and was approved by Order No. 24,945 (February 27, 2009). *See also* order No. 24,966 (May 1, 2009) denying motion for rehearing. This LCIRP was in effect in 2011. At hearing, Mr. Cannata clarified that what he referred to as the "2010" plan was the plan filed in DE 07-108 and approved in 2009 (*see* January 16, 2013 hearing transcript at 105 and 111-115).

As part of his review, Mr. Cannata examined PSNH's outage reports and conducted interviews with PSNH's employees regarding the operation and maintenance of its generating plants and entitlements. Accion found that PSNH's base load units generally performed well, with high availability on the highest priced energy days during 2011.

Mr. Cannata recommended that PSNH not recover from customers the cost of the replacement power related to certain outages that occurred at PSNH's units during 2011. In addition, there were a few outages that occurred in 2010 for which Accion recommended that PSNH defer recovery pending further review in this docket. Based on its review, Accion recommended that PSNH not recover the costs of replacement power for those 2010 outages.<sup>7</sup>

Finally, Mr. Cannata had several recommendations related to unit operation. PSNH agreed to all of Mr. Cannata's recommendations as detailed in the Settlement Agreement filed with the Commission on December 26, 2012 (Hearing Ex. 3).

### III. STIPULATION AND SETTLEMENT AGREEMENT

#### A. Replacement Power Costs

PSNH agreed not to recover replacement power costs for the following outages.

	Replacement Power Cost
<b>2011 Outages</b>	
Schiller Outage 6C	\$0
Ayers Island Outage 1B	\$31
Eastman Falls Outage 2M	\$35
Jackman Outage 1D	\$545
Garvins Falls Outages 4F,4G,4H	\$219
<b>2010 Outages</b>	
Canaan Outages C,D,E,F,G,K and M	\$548
Garvins Falls Outages M-A	\$38
Hooksett Outages A,B and C	\$787
<b>Total</b>	<b>\$2,203</b>

<sup>7</sup> These outages are detailed in the summary of the Settlement Agreement in Section III of this Order.

## **B. Power Supply and Procurement**

PSNH and Staff agreed that PSNH's filing contains an accurate representation of the capacity and energy purchases in 2011. PSNH and Staff also agreed that PSNH made sound management decisions with regard to such purchases and that the capacity factors projected for 2011 market purchases were reasonable

## **C. Recommendations Regarding Capacity and Energy Transactions**

PSNH agreed to continue to focus on the short-term market in the near future as market prices remain depressed due to low economic activity, load growth and fuel prices.

## **D. Recommendations for Improved Unit Operations**

PSNH agreed to implement the following Accion recommendations to improve unit operations<sup>8</sup> and provide updates on their implementation at the time of its May 2013 reconciliation filing.

- 1. 2012-1** - Accion stated that due to the installation of the Scrubber, situations may arise that could result in failures in both Merrimack units. Accion recommended that, if it has not already done so, PSNH review the interaction of the Scrubber with both units to identify possible failure conditions and determine the need for spare parts or additional redundancy to maximize operational efficiency. PSNH agreed to continue its review of the new scrubber installation and assess potential failure modes to determine the necessity for spare parts or additional redundancy.
- 2. 2012-2** - Accion observed that PSNH has to make certain assumptions to develop an outage schedule, but during a planned outage at Merrimack, certain assumptions required refinement. Accion recommended and PSNH agreed to review planned outage schedules to detect assumptions that need to be verified.
- 3. 2012-3** - Accion stated its belief that PSNH will increasingly install used or refurbished equipment as its unit fleet ages. Accion and PSNH agreed to add the testing performed on used or refurbished parts to the part's history documentation. This will be implemented at each station including the hydro units and testing expectations will be made clear to vendors.

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<sup>8</sup> Recommendations numbered 11-13 are continuing commitments that PSNH made in prior year reconciliation dockets. This order contains summaries of the recommendations. The full recommendations can be found in Exhibit 3 to this docket.

4. **2012-4** - Accion recommended and PSNH agreed to make clear to the ISO-NE that all requested unit starts that are shorter than committed start-up times are made on a best efforts basis only and that PSNH is not responsible if the start-up time requested is less than the committed start-up time.
5. **2012-5** - Accion recommended and PSNH agreed to review its generation tie-in configurations, assess the risk of similar failures, and, as appropriate and economical, address the risks found.
6. **2012-6** - Accion recommended and PSNH agreed to develop a time bounded program approach for replacement of Mercooid switches at its hydro stations and other generating facilities with identified opportunities and will submit the switch replacement schedule with its May 2013 ES/SCRC reconciliation filing.
7. **2012-7** - Accion recommended and PSNH agreed to review the time of year it changes temperature settings to address early or late season temperature changes.
8. **2012-8** - Accion recommended and PSNH agreed to reinforce with employees (*e.g.*, engineers, operators, and mechanics) the importance of understanding and confirming the appropriateness of a replacement that is not in-kind.
9. **2012-9** – Accion recommended and PSNH agreed to review changes in the compatibility of materials used in interface connections and to strengthen its training of proper installation of the various interface sealing mechanisms at all of its stations.
10. **2012-10** - (From recommendation 2009-5) PSNH agreed to report on this issue as part of its filing for the 2011 ES/SCRC review in May 2012 (DE 11-094 Stipulation Section IV.E). PSNH filed that progress report with the Commission on May 2, 2012 as part of its 2011 ES/SCRC review. PSNH has completed under-voltage and over-speed studies at each of its hydro units. Recommendations from these studies have been completed.  
  
(From recommendation 2011-6) - PSNH agreed to acquire the capability to perform in-house transient stability analyses. PSNH responded to this item in its filing on May 2, 2012. PSNH is in the process of training in-house personnel. Currently, PSNH is gathering data to construct models to analyze the Canaan and Jackman hydro areas. PSNH will identify the most cost-effective next steps. To the extent that systemic issues are identified as associated with over-trip outages, PSNH will determine prudent action using good engineering judgment.
11. **2012-11** - (From recommendation 2011-3) PSNH agreed to conduct a vegetation inspection of the 355 and 355X10 34.5 kV circuits connected to the Canaan Hydro Station and, from recommendation 2011-4, PSNH agreed to conduct a vegetation inspection of the 335/332 34.5 kV circuits that are connected to the Hooksett and Garvins Falls Hydro Stations. Accion recommends and PSNH Transmission agrees to implement the recently developed plan to remove trees from outside the right-of-way when they pose a risk to the

line and the easement allows for removal of such trees. Completion of this plan is contingent upon funding and available easements. PSNH will notify the Commission of the final budgeted amount, the portion of the budgeted amount that is allocated to New Hampshire facilities, and the schedule of completion versus the New Hampshire 5-year transmission vegetation maintenance schedule when the 2013 budget is finalized.

PSNH Distribution agrees to complete the circuit by circuit analysis and identify the rights-of-way that contain easements that allow PSNH to address risk trees outside the right-of-way.

PSNH agrees to continue its right-of-way full-width clearing program for the duration of the existing Reliability Enhancement Program. PSNH agrees to remove risk trees outside the easement area when they are identified and the easement allows for removal of such trees. If the easement does not allow removal, a reasonable attempt will be made to contact the property owner for permission to remove the tree.

PSNH agrees to remove risk trees along roadways when they are identified and the easement language allows for removal of such trees. If the easement language does not allow removal or there is no easement, a reasonable attempt will be made to contact the property owner for permission to remove the tree.

Additionally, PSNH agrees to perform risk tree removal on the 355 line during the fourth quarter of 2012, to assure the line remains reliable until the scheduled full right-of-way maintenance is performed in 2013. An update on this status will be provided in PSNH's May 2013 reconciliation filing.

**12. 2012-12 - (From recommendation 2010-1)** Accion recommended and PSNH agreed to update the status of the ongoing litigation regarding the Merrimack Unit 2 Turbine Outage.

**13.** PSNH and Staff agree that the following recommendations should be closed:

- 2009-1 – Property claim and Replacement Power Costs for the 2008 Merrimack turbine outage,
- 2009-2 – Schiller warranty items,
- 2011-1 – Prepare units for longer shut down times,
- 2011-2 – Potential gasket problems within the confines of the outage, and
- 2011-5 – Emergent issues at small hydro stations.

#### **IV. SUMMARY OF CLOSING STATEMENTS**

##### **A. Public Service Company of New Hampshire**

PSNH said that the scoping order in this docket, Order No. 25,375, noted that the reconciliation filing by PSNH is an annual filing to reconcile revenues and expenses associated with the stranded cost recovery and power generation and supplement power purchases for calendar year 2011. PSNH stated that the reconciliation filings allow PSNH to compare its estimated revenues and expenses with those actually incurred in the prior calendar year and to either credit an over-recovery or include an under-recovery in rates. PSNH noted that the Commission also reviews the planned outages and associated power purchases to determine if PSNH has acted prudently in conducting those activities. PSNH pointed out that in Order No. 25,375, the Commission specifically said that the issues regarding PSNH's planning process or forecasts of power needs, costs or related factors are considered in the context of PSNH's LCIRP and will be considered in the context of a LCIRP or ES rate setting docket, as appropriate, and are beyond the scope of this proceeding.

PSNH pointed out that Staff, through its consultant, has concluded that PSNH acted prudently and reasonably. PSNH requested that the Commission accept and approve the Settlement Agreement with the understanding that plant retirement or similar issues are not appropriate matters for this docket.

##### **B. Office of Consumer Advocate**

The OCA was not a signatory to the Settlement Agreement. According to the OCA, requiring residential customers to pay the carrying costs of generation in economic shutdown is not reasonable. The OCA opined that if PSNH believes that there is value to its generation plants, the Company should pay for those costs.

The OCA asserted that the Newington plant is an obvious candidate for retirement because it is no longer operating as a base load plant and the plant's capacity could easily be replaced. According to the OCA, PSNH has authority under RSA 369-B:3-a to retire a generation unit at any time and as it has not exercised that authority, it should carry the costs of uneconomic generation.

Finally, the OCA said that while PSNH may have made prudent decisions, those decisions do not result in reasonable costs to New Hampshire's residential ratepayers. The OCA stated that it would be a fairly straightforward calculation to determine the costs and disallow that amount from recovery in rates.

### **C. Commission Staff**

Staff noted that the reconciliation docket is conducted on an annual basis to allow an investigation of the prior calendar year activities and to determine whether the costs incurred by PSNH are the actual, prudent and reasonable costs of providing energy service pursuant to RSA 369-F:3, IV (1)(A). Staff said that the investigation conducted by Staff's consultant and the resulting Settlement Agreement supports the conclusion that the costs claimed by the Company were the reasonable and actual costs incurred by PSNH. Staff asserted that the Settlement Agreement is a just and reasonable resolution of the issues in the docket and is in the public interest pursuant to N.H. Code Admin. Rule Puc 203.20(b).

Staff acknowledged the OCA's comments and recommended that the Commission consider OCA's suggestions in a planning docket and not in a docket that looks back at a prior calendar year.

## V. COMMISSION ANALYSIS

Based upon the Restructuring Agreement with PSNH, which resulted *inter alia* in the Commission issuing a financing order that securitized certain of PSNH's recoverable stranded costs, PSNH is obligated to use its generation fleet for the provision of its energy service and may recover its "actual, prudent and reasonable costs" in connection with such use of these facilities. RSA 369-B:3, IV(b)(1)(A) (noting that this obligation remains effective until such time as PSNH may divest its generation fleet); *see also* RSA 369-B:3-a ("subsequent to April 30, 2006, PSNH may divest its generation assets if the commission finds that it is in the economic interest of retail customers of PSNH to do so, and provides for the cost recovery of such divestiture"). To the extent that PSNH must procure retail energy from other sources, we review the prudence of those costs as well. *See* RSA 369-B:3, IV(b)(1)(A).

Pursuant to Puc 203.20, the Commission may approve a settlement agreement if it finds that the result is just and reasonable and in the public interest. Regarding the terms of the Settlement Agreement in this case, we find that the public interest is served by the ability of PSNH and Staff to resolve the issues that arose in this proceeding and with PSNH's willingness to accept numerous additional recommendations to improve its processes and procedures for operation of its generation fleet and managing its energy and capacity purchases and sales. We find the terms of the Settlement Agreement to be just and reasonable and in the public interest and will therefore approve it. While we understand that PSNH agreed to continue to focus on the short-term market as energy prices during the reconciliation period remained depressed, recent market prices have been extremely volatile. We instruct PSNH to evaluate the impacts of such market volatility in any capacity and energy transaction strategy moving forward. Further, we direct PSNH to be more consistent in its use of "availability" and



“capacity factor” in describing the operation of its generating facilities. When a plant is available it is capable of operating. A plant’s capacity factor is based upon the percent of time the plant actually operated. For example, PSNH often refers to Newington Station’s availability; however, it has a very low capacity factor. On the other hand, PSNH usually refers to Merrimack Station’s capacity factor which is higher than Newington’s. It would be more accurate to describe all generation facilities in terms of both availability and capacity factor.

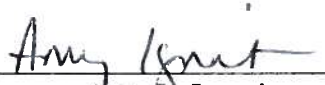
Although, we acknowledge OCA’s arguments concerning recovery of the costs of its generation facilities during periods of economic shutdown, we are required by statute to allow PSNH recovery of its costs of supplying default service load from its generation facilities until divestiture or retirement of those facilities. See RSA 369-B:3, IV (b)(1)(A) and RSA 369-B:3-a. Decisions to divest or retire PSNH’s generation assets must be reviewed in separate divestiture or planning dockets, and not in this annual reconciliation proceeding.

We also heard from both PSNH and Staff that the current reconciliation filing is consistent with PSNH’s most recently approved LCIRP, thereby meeting the requirements of RSA 378:41. By approving the Settlement Agreement, however, we make no determination regarding the level of investment at any generating unit, as those issues may relate to other dockets before the Commission. Finally, we agree with Staff and PSNH that any discussion of retirement should be considered in a planning or other proceeding which contemplates future regulatory mandates.

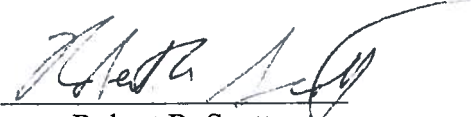
**Based upon the foregoing, it is hereby**

**ORDERED**, that the Stipulation and Settlement Agreement signed by Staff and Public Service Company of New Hampshire is hereby APPROVED.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh  
day of February, 2013.

  
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Amy D. Ignatius  
Chairman

  
\_\_\_\_\_  
Michael D. Harrington  
Commissioner

  
\_\_\_\_\_  
Robert R. Scott  
Commissioner

Attested by:

  
\_\_\_\_\_  
Debra A. Howland  
Executive Director