

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

IR 13-020

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

**Investigation into Market Conditions Affecting PSNH and its Default Service Customers
and the Impact of PSNH's Ownership of Generation on the Competitive Electric Market**

Order Accepting Staff Report and Seeking Valuation Analysis

ORDER NO. 25,545

July 15, 2013

I. BACKGROUND

On January 18, 2013, the Commission announced an investigation, pursuant to RSA 365:5 and RSA 374:4, into the market conditions affecting the default service of Public Service Company of New Hampshire (PSNH) in the near term and how PSNH proposes to maintain safe and reliable service to its default service customers at just and reasonable rates in light of those market conditions. The investigation also explored the impact, if any, of PSNH's continued ownership and operation of generation facilities on the competitive electric market in New Hampshire.

The Commission Staff, with the assistance of The Liberty Consulting Group, reviewed market and industry publications and interviewed stakeholders, including PSNH, power producers, competitive electricity suppliers, large energy customers, environmental advocates, relevant State agencies and the Office of Consumer Advocate. On June 7, 2013, Staff issued its *Report on Investigation into Market Conditions, Default Service Rate, Generation Ownership and Impacts on the Competitive Electricity Market* (Report). Also on that date the Commission

issued a Secretarial Letter offering all interested parties the opportunity to file responsive comments and to recommend appropriate next steps, if any, to address the issues raised in the Report.

PSNH, on June 11, 2013, filed a Right to Know request, pursuant to RSA 91-A, seeking “copies of all documents, records and communications in the possession of the Staff of the [Commission], and its consultant, Liberty Consulting, related to the [Report]” from September 1, 2012 through June 11, 2013. Commission General Counsel F. Anne Ross responded on June 14, 2013 that the Commission was reviewing the request; on June 26, 2013, the Commission produced 209 pages of documents responsive to the request and withheld 2,522 pages of documents that were exempt from disclosure pursuant to RSA 91-A and RSA 363:17-c.

The Commission received responses from the following: PSNH, TransCanada Power Marketing Ltd. and TransCanada Hydro Northeast Inc. (together, TransCanada), Retail Energy Supply Association (RESA), North American Power and Gas, LLC (NAPG), New England Power Generators Association, Inc. (NEPGA), Conservation Law Foundation, Sierra Club and the Office of Consumer Advocate (OCA). With the exception of PSNH, those commenting supported the Commission’s investigation and generally endorsed the analysis and conclusions contained in the Report. PSNH argued the Report deviated from the scope set forth in the Commission’s order of notice by failing to consider the legislative and regulatory history including the Restructuring Settlement reached in 1999 which led to current circumstances, over-relied on stakeholder input, and reached unsupported conclusions without demonstrating its analytical foundation. PSNH also stated that because the documents requested as part of its Right to Know request had not been produced, it was unable to fully respond and reserved the

right to supplement its comments upon receipt of the materials requested. All comments, as well as the Report, are available on the Commission's website at

<http://www.puc.nh.gov/Regulatory/Docketbk/2013/13-020.html>.

II. RECOMMENDED NEXT STEPS

Interested parties responded to the Commission's request for comments and appropriate next steps. The recommendations include legislative action, collaborative stakeholder sessions and Commission adjudication, as summarized below.

A. Legislative Action

Interested parties argued that the Legislature should:

- prohibit any shift in costs, such as through a non-bypassable charge on electric distribution (NAPG)
- require PSNH to change to a competitive full requirements process to provide power for its customers (RESA, TransCanada)

B. Stakeholder Process

Interested parties recommended a stakeholder process that would:

- commence immediately and work until Dec 2013 to develop legislative initiatives for the Jan –June 2014 legislative session (NEPGA)
- immediately engage the Governor's office and members of the legislative oversight committee on electric restructuring to bring legislative input into the process and consider a mediator to help manage the collaborative process (TransCanada)

C. Commission Adjudication

Interested parties urged the Commission to:

- complete the docket on cost recovery for the Scrubber at Merrimack Station before any discussion regarding divestiture of PSNH assets (PSNH)
- open an adjudicative docket pursuant to RSA 363-B:3-a and in the meantime adopt an alternative rate for default service that protects customers from migration risks (OCA)

- through the adjudicative process, protect competitors against PSNH’s “monopoly tendencies” (NAPG)
- take appropriate action to require PSNH to divest or retire its generation fleet (RESA)
- undertake a market analysis of PSNH’s generation assets in order to allow for sale to an affiliate or third party (NEPGA)
- create an incentive for PSNH to reach speedy resolution, and a disincentive for PSNH to delay resolution, such as through a higher recovery of stranded costs if done quickly, with diminishing recovery down to zero for delay (TransCanada)
- commence a docket on what constitutes “just and reasonable rates” (TransCanada)
- open docket to address the conclusions of the Report (Sierra Club)

III. COMMISSION ANALYSIS

The Staff Report lays out circumstances and projections facing our largest electric utility that, if borne out, are troubling for the future health of the utility and the interests of its ratepayers. As the Report makes clear, it contains the Staff’s preliminary analysis of economic and regulatory pressures, based on review of literature and interviews with stakeholders and should not be misconstrued as a finding by the Commission. Though the Report is preliminary and the underlying assumptions have not been adjudicated, it sets forth credible concerns of the Commission Staff and consultants, each of whom brings years of market and regulatory analysis to the review.

The Commission, in its role as “arbiter between the interests of the customers and the interests of the regulated utilities”¹ cannot simply stand by and hope that circumstances improve. The Report, therefore, is a critical first step in exploring the economic and regulatory challenges facing PSNH and the effects those challenges may have on its customers. There is considerable work to be done by the Commission and likely by the Legislature as well. To move the inquiry

¹ See RSA 363-17-a for full text of the statute.

forward in an expeditious manner, the Commission hereby accepts the Report. By accepting the Report we do not adopt all of its assumptions or conclude that the information contained therein is necessarily proven as fact. We do, however, find that the Report demonstrates a credible risk of harm to PSNH and its customers if circumstances were to continue unchecked. We find it necessary to further analyze the economic and regulatory pressures facing PSNH. Even as we consider the various recommendations for next steps offered by stakeholders, we know that a threshold question for many discussions will be the value of PSNH's generation assets and the rate impacts if those assets were retired or sold. Towards that end, we direct Staff to engage a valuation expert, through a competitive bid process, to determine the value of PSNH's generation assets and entitlements. This information, which will be more precise than the general assessment of value in the Report, will be of use to the Commission and the Legislature, both of which are likely to consider further action in these matters, as well as PSNH and the many stakeholders affected by PSNH's operations.

We also address two errors pointed out by PSNH in its comments. PSNH noted that the Report incorrectly stated that "PSNH divested only its interest in Seabrook Station" when in fact it also divested its interests in the Millstone 3 nuclear plant (2.85% of the plant) and the Vermont Yankee nuclear plant (4% of the plant), as well as its indirect interests in the Seabrook nuclear plant (through an affiliated company's 35.98% ownership share). PSNH further noted that the Report referenced 2001 legislation that "*allowed* PSNH to keep its fossil-fueled and hydroelectric generation assets until at least February 2004" when in fact the legislation *required* PSNH to keep those assets for 33 months after "competition day." PSNH Comments at 5. PSNH

is correct regarding both statements, though it is not apparent that the changes would impact the analysis of the conclusions reached.

PSNH also notes “sample areas of concern” regarding the meaning of certain data and its contention that the Report, issued June 7, 2013, failed to note PSNH rate reductions authorized by the Commission on July 1, 2013. PSNH Comments at 14. PSNH also disagrees with the use of “Power Nominals” rather than higher and more volatile measures such as the Chicago Mercantile Exchange. PSNH Comments at 17-8. Finally, PSNH argues that the underlying assumptions contained in the Report are “static” and “[w]hile some may prove to be true, the likelihood that all of these conditions will play out as described here is impossible to fathom...” Comments at 18-19.


Debates over the meaning of data and the appropriate measures to apply in our analysis are precisely what must be undertaken going forward. While the Commission weighs the various adjudicatory options available to it, we will proceed with a competitive bidding process to obtain a valuation expert to perform a more detailed analysis of the value of PSNH’s generation assets and entitlements, which will help to inform any adjudicatory or legislative analysis of divestiture, possible stranded costs and their rate impacts.

Based upon the foregoing, it is hereby

ORDERED, that the Staff’s *Report on Investigation into Market Conditions, Default Service Rate, Generation Ownership and Impacts on the Competitive Electricity Market* is hereby ACCEPTED, as well as the comments received in response thereto; and it is

FURTHER ORDERED, that Staff shall engage through a competitive bid process a valuation expert to determine the value of PSNH’s generation assets and entitlements.


By order of the Public Utilities Commission of New Hampshire this fifteenth day of July,
2013.



Amy L. Ignatius
Chairman

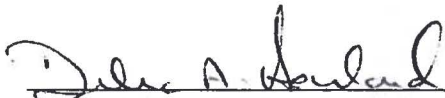


Michael D. Harrington
Commissioner



Robert R. Scott
Commissioner

Attested by:



Debra A. Howland
Executive Director