

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 14-238**

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE**

**Determination Regarding PSNH's Generation Assets**

**Order Denying Motion to Stay**

**ORDER NO. 25,756**

**January 15, 2015**

**I. PROCEDURAL HISTORY**

The Commission opened this docket pursuant to legislation that required it to “commence and expedite a proceeding to determine whether all or some of PSNH’s generation assets should be divested.” RSA 369-B:3-a, I (eff. Sept. 30, 2014). We conducted a preliminary prehearing conference on October 2, 2014; Commission Staff held a technical session in November 2014; and the parties filed memoranda on the scope of this docket in December 2014 and January 2015.

Public Service Company of New Hampshire (PSNH) filed a written Motion to Stay Proceedings in this docket on December 26, 2014. (PSNH filed the same motion in Docket No. DE 11-250, a case that considers the prudence of the costs and cost recovery for the Scrubber that PSNH installed at Merrimack Station).

**II. POSITIONS OF THE PARTIES**

**A. PSNH**

PSNH requests a stay “to allow collaborative and legislative efforts to progress that may resolve the myriad issues that are currently under consideration.” Motion at 1. PSNH states that Senate Majority Leader Jeb Bradley filed Legislative Service Request (LSR) #2015-S-0928-R

titled, “relative to electric rate reduction financing and commission action.” PSNH indicates that the LSR will result in proposed legislation that may resolve the issues that are before us in this docket. Motion at 2. PSNH represents that Senator Bradley is aware of and supports the request to stay. *Id.* PSNH argues that the “dynamics affecting the ability to reach a collaborative resolution to the myriad issues would be negatively impacted if the Dockets were to proceed at this time.” *Id.* PSNH offers to provide regular updates of the legislation and other efforts to resolve this case. Finally, PSNH argues that a stay would promote the orderly and efficient conduct of the proceedings and not impair the rights of others. *Id.* at 3; *cf.* Puc 203.13(c) (“The commission shall grant a request for postponement of a hearing if it finds that to do so would promote the orderly and efficient conduct of the proceeding”).

#### **B. New Hampshire Office of Energy and Planning**

The Office of Energy and Planning (OEP) does not object to the requested stay, although OEP asks us to condition any stay on PSNH filing status reports “to allow prompt resumption of proceedings if settlement negotiations are not progressing in a timely and good faith manner.” OEP Response at 2.

#### **C. City of Berlin**

The City of Berlin does not take a position on the motion to stay, but states that it “should have an active role in the discussion and negotiation of any such legislative resolution.” The City of Berlin also asks that we condition a stay on “PSNH filing a Motion to Stay the pending tax appeals at the Board of Tax and Land Appeals (BTLA) ... and the BTLA’s grant of said Motion to Stay.” City of Berlin’s Response at 1. The City of Berlin argues that a stay of the tax appeals is important because PSNH is pursuing an argument before the BLTA regarding the

valuation of its generation assets that should be addressed by any legislation that resolves this case. *Id.* at 2.

#### **D. Conservation Law Foundation**

CLF notes that a stay in this docket “may be inconsistent with” the requirement of RSA 369-B:3-a to “expedite” this case. CLF Response at 1. CLF also points out that PSNH failed to seek the concurrence of the other parties. *Id.* CLF nonetheless does not object to the requested stay and intends to engage in any settlement discussions. CLF urges the Commission to oversee the settlement negotiations and to conduct that process among the parties to this docket and DE 11-250 before the legislative process in order “to have the best chance of success.” *Id.*

#### **E. New England Power Generators Association and Retail Energy Supply Association**

New England Power Generators Association (NEPGA) and the Retail Energy Supply Association (RESA) “support efforts to resolve the instant divestiture docket through constructive settlement discussions,” but raise questions about the “collaborative process.” NEPGA and RESA ask about the time frame for that process, who will participate, whether the Commission or the Legislature will supervise the process, and which Commissioners would hear a settlement given Commissioner Scott’s recusal and Special Commissioner Iacopino’s appointment in Docket No. DE 11-250. NEPGA and RESA state that these questions should be answered prior to or as part of a ruling on PSNH’s motion to stay.

#### **F. Granite State Hydropower Association**

Granite State Hydropower Association (GSHA) takes no position on the motion to stay. If the Commission grants the motion, GSHA asks for a statement that the Commission expects

the “collaborative process” to “provide all parties to both dockets with the ability to participate fairly and fully in negotiations.” GSHA Response at 1.

#### **G. Sierra Club**

The Sierra Club objects to the motion to stay in both dockets. As to this case, the Sierra Club argues that the statute giving rise to this case ordered the Commission to “expedite” this proceeding, including a required progress report by March 31, 2015. Sierra Club Objection at 3. The Sierra Club notes that PSNH pointed to no actual legislation to justify its requested stay, merely the LSR, and that PSNH’s request is otherwise too vague.

#### **H. Office of Consumer Advocate**

The Office of The Consumer Advocate (OCA) does not object to the requested stay in this case and in the Scrubber docket so long as PSNH’s default service ratepayers are held harmless for the extra carrying costs on the Scrubber that may accrue during the stay. OCA Response at 1. “PSNH can demonstrate its good faith by holding ratepayers harmless for this requested stay.” *Id.* at 3. The OCA also argues that there has been sufficient time for any settlement discussion or legislative action and that PSNH provided no legal support for its request. “There are no facts or issues to be developed elsewhere that would assist the Commission in its determination in either docket.” *Id.* at 2.

#### **I. International Brotherhood of Electrical Workers, Local #1837**

The International Brotherhood of Electrical Workers, Local #1837, does not object to PSNH’s motion to stay.

#### **J. Remaining Intervenors and Staff**

Staff and the remaining intervenors (TransCanada Power Marketing, Ltd., TransCanada Hydro Northeast, Inc., the City of Manchester, the New Hampshire Sustainable Energy

Association, Pentti J. Aalto, and the Business and Industry Association) did not file a response to PSNH's motion.

### **III. COMMISSION ANALYSIS**

We appreciate the attempt to reach a legislative or other negotiated solution of the issues related to this docket and we are aware of the support for this effort in various quarters. PSNH's motion to stay, however, conflicts with the express statutory requirement that we "expedite [this] proceeding." RSA 369-B:3-a, I. We are thus compelled to deny PSNH's motion to stay. We will proceed with this docket unless and until that legislative directive is changed. Therefore, all requests of the parties contingent on the Commission granting PSNH's motion are moot.

We note that the next step in this docket, which involves scoping matters, will not adversely affect any legislative or settlement process. We believe that there is the potential for a stipulation among the parties regarding the scoping matters discussed in their December and January briefs. We call upon the parties to work together to develop such a stipulation, to be filed no later than March 2, 2015.

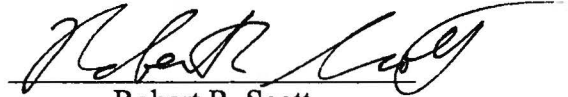
**Based upon the foregoing, it is hereby**

**ORDERED**, that PSNH's motion to stay is DENIED; and

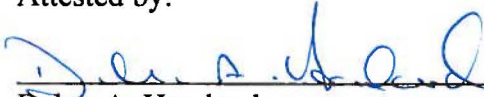
**IT IS FURTHER ORDERED**, that the parties to this proceeding collaborate to develop a stipulation pursuant to N.H. Code Admin. Rules Puc 203.20, filed no later than March 2, 2015, regarding the scoping matters discussed by the parties in their December and January briefs.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of  
January, 2015.

  
\_\_\_\_\_  
Martin P. Honigberg  
Chairman

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

Attested by:

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