



780 N. Commercial Street  
P.O. Box 330  
Manchester, NH 03105-0330

**Robert A. Bersak**  
Chief Regulatory Counsel

603-634-3355  
robert.bersak@eversource.com

January 26, 2016

Ms. Debra A. Howland  
Executive Director and Secretary  
New Hampshire Public Utilities Commission  
21 S. Fruit Street, Suite 10  
Concord, New Hampshire 03301

**Re: Docket No. DE 14-238, Determination Regarding PSNH's Generation Assets  
Litigation Settlement Between Settling Parties and Non-Advocacy Staff**

Dear Director Howland:

Pursuant to RSA 541-A:31, V and Puc 203.20, the Settling Parties to the "2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement" ("Settlement Agreement") and Non-Advocate Staff have entered into the attached partial litigation settlement ("Litigation Settlement").

**Near-Term Divestiture is Supported**

The purpose of the Litigation Settlement is to present a compromise and resolution of disputed issues in an effort to both simplify and strengthen the record presented to the Commission in this docket. Non-Advocate Staff (hereafter, "Staff," with Advocate Staff referred to as "Advocate Staff") now concurs with the parties to the Settlement Agreement that near-term divestiture of PSNH's generating assets meets the public interest standard set forth in 2015 Senate Bill 221. This Stipulation arises as a result of myriad settlement meetings conducted subsequent to the filing of the Settling Parties' rebuttal testimony.

**Brattle Group analysis**

With input and collaboration from the Settling Parties, Staff initiated an additional analysis of the forecast impacts of near-term divestiture using source data from a variety of reputable sources, supplemented by specific data concerning PSNH's generating assets and default energy sales supplied by PSNH. The additional analysis was performed by the Brattle Group, a contractor engaged on behalf of Staff.

The Brattle Group analysis demonstrates that using the data described above, positive savings to customers are expected in the first five years following a near-term divestiture of PSNH's generating assets. Mr. Dean Murphy of the Brattle Group is supplying additional testimony presenting and discussing the Brattle Group analysis and its results. The Settling Parties and Staff all agree that the results of the Brattle Group analysis qualitatively support a determination that near-term divestiture meets the public interest standard set forth in SB 221 for approval of the Agreement by the Commission.

The Settling Parties do not necessarily adopt the precise quantitative results of the Brattle Group analysis and all parties reserve the right to advocate for different forecast quantitative impacts of the Agreement should the Commission reject this Litigation Settlement. However, in light of the Legislature's determination that the legal standard for approval of the Agreement is whether that Agreement is in the public interest, and not an economic interest standard, the Settling Parties' and Staff's qualitative support for the Brattle Group analysis leads to their joint support for near-term divestiture.

### **Beneficial Impact on Jobs and the State's Economy**

The Settling Parties recognize that the high cost of energy has a deleterious effect on the state's economy and the ability to attract and retain employment across industries. In 1996 N.H. Laws 129:1, II (the "Findings" section of the Electric Restructuring Act), the Legislature found that, "New Hampshire's extraordinarily high electric rates ... are causing businesses to consider relocating or expanding out of state and are a significant impediment to economic growth and new job creation in this state." Similarly, in 1998 N.H. Laws 191:1, I the Legislature found, "Further delay [in electric restructuring] will harm the state's economy and cause a continued burden on the state's citizens, commerce, and industry." The savings in electric energy costs demonstrated in the Brattle Group analysis will have beneficial effects by lowering electric rates and will aid the state's economy and its ability to attract and retain employment across industries.

Based upon results from the model developed by Regional Economic Models, Inc. (REMI), which is a widely-used and highly-regarded economic model, especially for measuring regional economic effects related to changes in income, output and employment, approximately seven jobs are created for every million dollars in reduced energy costs. Using that analysis, the Brattle Group analysis would indicate that near-term divestiture of PSNH's generating assets could create hundreds of jobs in this state.

### **Auction Process**

In addition to agreement that near-term divestiture of PSNH's generating assets should be approved, the Settling Parties and Staff further agree that issues regarding the actual divestiture (or auction) process should not be included in the hearings scheduled for February 2 through 5. The Settling Parties and Staff agree that action on the divestiture process should await engagement of an "auction expert" by the Commission. To effectuate this understanding, the Settling Parties have agreed to amend the Agreement's provisions concerning the divestiture process contained in Section IV as provided in the attachment to the Litigation Settlement.

### **Designation of Staff**

In Section X of the Settlement Agreement, the Settling Parties requested that, "...following closure of Docket No. DE 14-238, the Commission open a docket with appropriate ongoing proceedings to address the administration of the divestiture auction, issuance of a finance order implementing RRBs, and calculation and reconciliation of the stranded costs recovery charge." Staff concurs with this request. The Settling Parties and Staff request pursuant to RSA 363:32 and RSA 363:33, that the Commission expeditiously rule that future proceedings in this docket relative to the divestiture process be a separate proceeding such that Advocate Staff would not be subject to the designation under RSA 363:32 for the present proceeding. Such

action would allow Attorney Ross and Director Frantz to participate in the divestiture process in such proceeding on behalf of the Commission without the restrictions of designation under RSA 363:32.

Immediately subsequent to such action, the Settling Parties and Staff recommend that the Commission issue a Request for Proposals to engage an auction expert, under the guidance of Commission Staff and with appropriate input from other parties to this proceeding.

#### **Unresolved Issues Relating to the Settlement**

The Settling Parties and Staff wish to note that they have not reached agreement on whether the proposed stranded cost rate design contained in the Agreement fairly allocates the costs of divestiture of PSNH's generation plants among customer classes. Hence, the Settling Parties and Staff will present their testimony regarding this issue to the Commission for resolution.

Moreover, the issue of the proper avoided cost for purchases from qualifying facilities under PURPA is not an issue resolved by the Litigation Settlement. Parties will continue to have the opportunity to present evidence regarding that issue at hearing.

#### **Agreement and Impact on Prefiled Testimony**

In light of and as discussed in the Litigation Settlement, the Settling Parties and Staff will not be offering into the hearing record all of the prefiled testimony that has previously been filed. If the Commission rejects this Stipulation, the Settling Parties and Staff reserve the right to submit all such testimony to the Commission for its consideration during future adjudicative hearings.

#### **Conclusion**

The Settling Parties and Staff urge the Commission to accept the Litigation Settlement under the authority granted it by RSA 541-A:31, V and Puc 203.20.

In 1996, the Legislature expressly found that, "It is in the best interests of all the citizens of New Hampshire that the general court, the executive branch, and the public utilities commission work together to establish a competitive market for retail access to electric power as soon as is practicable ... ." 1996 N.H. Laws 129:1, V. In 2014 N.H. Laws 310:1 the Legislature again expressly desired resolution of the issues regarding divestiture of PSNH' generation assets via settlement. The Litigation Settlement fulfills these myriad statutory directives, is in the public interest, and after twenty years effectuates the "Purpose" of the Legislature set forth in the Electric Restructuring Act to "harness the power of competitive markets."

Sincerely,



Robert A. Bersak  
Chief Regulatory Counsel

Attachments:

- Litigation Settlement
- Amendment to 2015 PSNH Restructuring and Rate Stabilization Agreement
- Motion Regarding Designation of Staff
- Supplemental Testimony of Leszek Stachow
- Testimony of Dean Murphy
- Redacted Direct Testimony of Eric Chung
- Redacted Direct Testimony of William Smagula
- Redacted Direct Testimony of John Reed
- Redacted Direct Testimony of Senators Bradley and Feltes
- Redacted Direct Testimony of Tom Frantz
- Redacted Direct Testimony of James Brennan

cc: Service List, Docket No. DE 14-238

**SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED**

---

---

**Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.**

Executive.Director@puc.nh.gov	
alexander.speidel@puc.nh.gov	grant.siwinski@puc.nh.gov
amanda.noonan@puc.nh.gov	harringt@metrocast.net
andrew.hamilton@mclane.com	howard.moffett@leg.state.nh.us
catherine.corkery@sierraclub.org	james.brennan@oca.nh.gov
catherine.marsellos@puc.nh.gov	james.mccaffrey@sierraclub.org
cbaia@concordnh.gov	jay.dudley@puc.nh.gov
cboldt@dtclawyers.com	jeb.bradley@leg.state.nh.us
cholahan@nepga.org	jkennedy@concordnh.gov
christine.vaughan@nu.com	kate@nhsea.org
Christopher.aslin@doj.nh.gov	kristi.davie@nu.com
christopher.goulding@nu.com	leszek.stachow@puc.nh.gov
dan.feltes@leg.state.nh.us	lisa.cameron@brattle.com
daniel.allegretti@exeloncorp.com	mark.berkman@brattle.com
david.shulock@puc.nh.gov	matthew.fossum@eversource.com
ddolan@nepga.org	mayoac@nu.com
Dean.murphy@brattle.com	mayor@manchesternh.gov
dhartford@clf.org	mbirchard@clf.org
dpatch@orr-reno.com	melissa.lauderdale@constellation.com
elizabeth.nixon@puc.nh.gov	Meredith.hatfield@nh.gov
elizabeth.tillotson@nu.com	mike@ridgesend.com
eric.chung@nu.com	nhlocal@ibew1837.org
f.anne.ross@puc.nh.gov	ocalitigation@oca.nh.gov
fedelblut@gmail.com	peramton@gmail.com
gilfavor@comcast.net	pjaesd@comcast.net

Docket #: 14-238-1 Printed: January 26, 2016

**FILING INSTRUCTIONS:**

**a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:**

DEBRA A HOWLAND  
EXECUTIVE DIRECTOR  
NHPUC  
21 S. FRUIT ST, SUITE 10  
CONCORD NH 03301-2429

**b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.**

**c) Serve a written copy on each person on the service list not able to receive electronic mail.**

pradip.chattopadhyay@oca.nh.gov

richard.chagnon@puc.nh.gov

rick.white@nu.com

rmunnelly@davismalm.com

robert.bersak@nu.com

sgeiger@orr-reno.com

slamb@biaofnh.com

susan.chamberlin@oca.nh.gov

suzanne.amidon@puc.nh.gov

terry.cronin@tds.net

tirwin@clf.org

tom.frantz@puc.nh.gov

william.smagula@nu.com

zachary.fabish@sierraclub.org