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STATE OF NEW HAMPSHIRE

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PUBLIC UTILITIES COMMISSION

3

4 March 5, 2008 - 10:05 a.m.  
Concord, New Hampshire

5

REDACTED FOR PUBLIC USE

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RE: DE 07-125

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PUBLIC SERVICE CO. OF NEW HAMPSHIRE:  
Petition for Approval of Power Purchase  
Agreements with Pinetree Power, Inc.  
and Pinetree Power-Tamworth, Inc.

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PRESENT: Chairman Thomas B. Getz, Presiding  
Commissioner Graham J. Morrison  
Commissioner Clifton C. Below

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Connie Fillion, Clerk

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APPEARANCES: Reptg. Public Service Co. of New Hampshire:  
Gerald M. Eaton, Esq.

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Reptg. Residential Ratepayers:  
Rorie Hollenberg, Esq.  
Kenneth E. Traum, Asst. Consumer Advocate  
Office of Consumer Advocate

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Reptg. PUC Staff:  
Suzanne G. Amidon, Esq.

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Court Reporter: Steven E. Patnaude, LCR No. 52

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## I N D E X

3

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WITNESS PANEL:       SHELDON B. WICKER, JR.  
                          RICHARD C. LABRECQUE

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Direct examination by Mr. Eaton

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Cross-examination by Ms. Hollenberg

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Cross-examination by Ms. Amidon

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Interrogatories by Cmsr. Below

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Interrogatories by Chrmn. Getz

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Cross-examination by Mr. Mullen

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CLOSING STATEMENTS BY:

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Ms. Hollenberg

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Ms. Amidon

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Mr. Eaton

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## E X H I B I T S

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EXHIBIT NO.

D E S C R I P T I O N

PAGE NO.

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Filing of PSNH, including petition  
and testimony (11-20-07)

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2

Revised Direct Testimony of S.B.  
Wicker, Jr. & Richard C. Labrecque  
(03-04-08)

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Responses to data requests of PUC Staff 10

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Response to Data Request of the OCA 10

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{DE 07-125} (03-05-08)

1 P R O C E E D I N G S

2 CHAIRMAN GETZ: Okay. Good morning,  
3 everyone. We'll open the hearing in docket DE 07-125. On  
4 November 20, 2007, Public Service Company of New Hampshire  
5 filed for approval of two power purchase agreements, one  
6 with Pinetree Power, Inc., a 15-megawatt facility located  
7 in Bethlehem, and the other with Pinetree Power-Tamworth,  
8 a 20-megawatt wood-fired power plant located in Tamworth.  
9 An order of notice was issued on December 18th, and a  
10 prehearing conference was held on January 31.  
11 Subsequently, a secretarial letter was issued approving a  
12 procedural schedule leading to the hearing this morning.

13 Can we take appearances please.

14 MR. EATON: Good morning. For Public  
15 Service Company of New Hampshire, my name is Gerald M.  
16 Eaton.

17 CHAIRMAN GETZ: Good morning.

18 CMSR. MORRISON: Good morning.

19 CMSR. BELOW: Good morning.

20 MS. HOLLENBERG: Good morning. Rorie  
21 Hollenberg and Kenneth Traum here for the Office of  
22 Consumer Advocate.

23 CHAIRMAN GETZ: Good morning.

24 CMSR. MORRISON: Good morning.

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1 CMSR. BELOW: Good morning.

2 MS. AMIDON: Good morning. Suzanne  
3 Amidon, for Commission Staff. And, to my left is Steve  
4 Mullen, who is a Utility Analyst in the Electric Division,  
5 and to his immediate left is Tom Frantz, who is the  
6 Director of the Electric Division.

7 CHAIRMAN GETZ: Good morning.

8 CMSR. MORRISON: Good morning.

9 CMSR. BELOW: Good morning.

10 CHAIRMAN GETZ: Is there anything we  
11 need to address before we hear from Mr. Wicker and  
12 Mr. Labrecque?

13 (No verbal response)

14 CHAIRMAN GETZ: Can we proceed then, Mr.  
15 Eaton.

16 MR. EATON: Yes. I call to the stand  
17 Sheldon B. Wicker, Jr. and Richard Labrecque.

18 (Whereupon Sheldon B. Wicker, Jr. and  
19 Richard C. Labrecque was duly sworn and  
20 cautioned by the Court Reporter.)

21 SHELDON B. WICKER, JR., SWORN

22 RICHARD C. LABRECQUE, SWORN

23 DIRECT EXAMINATION

24 BY MR. EATON:

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[WITNESS PANEL: WICKER|LABRECQUE]

1 Q. Mr. Wicker, would you state your name for the record.

2 A. (Wicker) Yes. Sheldon B. Wicker, Jr. I've work at  
3 Public Service Company since 1966.

4 Q. And, what are your duties?

5 A. (Wicker) Up until June of last year, I was the Manager  
6 of Supplement Energy Sources Department, which handled  
7 all non-utility generation. Since July, I've been part  
8 time, working on additional non-utility generation  
9 projects for Public Service Company.

10 Q. Have you testified before this Commission before?

11 A. (Wicker) Yes, I have. Numerous times on non-utility  
12 generation, and, prior to that, financial issues.

13 Q. Mr. Labrecque, would you please state your name for the  
14 record.

15 A. (Labrecque) Richard Labrecque.

16 Q. And, for whom are you employed?

17 A. (Labrecque) Northeast Utilities Service Company.

18 Q. And, what is your position?

19 A. (Labrecque) I'm a Principal Engineer in the Wholesale  
20 Power Contracts Department.

21 Q. And, what are your duties?

22 A. (Labrecque) Generation service, generation resource  
23 planning, wholesale marketing activities, including  
24 supplemental power, and capacity planning and

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[WITNESS PANEL: WICKER|LABRECQUE]

1 procurement for PSNH.

2 Q. Have you testified before the Commission before?

3 A. (Labrecque) Yes.

4 Q. Mr. Wicker, do you have in front of you a multipage  
5 document that has a cover letter addressed to the  
6 Executive Director and Secretary dated November 20th,  
7 2007. It's signed by myself, and contains a petition  
8 and your prefiled direct testimony?

9 A. (Wicker) Yes, I do.

10 Q. And attached to that are the contracts which are part  
11 of this proceeding?

12 A. (Wicker) Yes, they are.

13 Q. And, they're in complete form or what form are they in?

14 A. (Wicker) I believe that -- I don't have the specific  
15 document, but I believe that one set of documents or  
16 one set of agreements are redacted and the other set is  
17 not redacted.

18 MR. EATON: Mr. Chairman, I'd like that  
19 multipage document to be marked as "Exhibit 1" for  
20 identification.

21 CHAIRMAN GETZ: So marked.

22 (The document, as described, was  
23 herewith marked as Exhibit 1 for  
24 identification.)

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[WITNESS PANEL: WICKER|LABRECQUE]

1 BY MR. EATON:

2 Q. Mr. Wicker, did you discover any errors or information  
3 that needs to be corrected in your direct testimony?

4 A. (Wicker) Yes, there are.

5 Q. And, did you have that corrected testimony filed with  
6 the Commission?

7 A. (Wicker) Yes, I believe it was filed yesterday. It's  
8 the revised direct testimony dated March 4th, 2008.

9 MR. EATON: Does the Commission have  
10 copies of that revised testimony?

11 CHAIRMAN GETZ: We have it.

12 BY MR. EATON:

13 Q. Now, is the revised testimony true and accurate to the  
14 best of your knowledge and belief?

15 A. (Wicker) Yes, it is.

16 Q. Is there any numbers that need to be corrected in that  
17 testimony?

18 A. (Wicker) Yes, there is. There's one number that was  
19 corrected in yesterday's filing, which needs -- which  
20 had two digits transcribed [transposed?]. If you look  
21 on Page 5, Line 8, the next to the last number in the  
22 line that was added was "483,791", and that needs to be  
23 corrected to "483,971". That's the only correction.

24 Q. And, with that correction, you believe this testimony

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[WITNESS PANEL: WICKER|LABRECQUE]

1 is true and accurate to the best of your knowledge and  
2 belief?

3 A. (Wicker) I do.

4 Q. And, if asked those questions today, you would respond  
5 the same way?

6 A. (Wicker) I would.

7 Q. And, Mr. Labrecque, do you agree that the testimony, as  
8 revised today, is true and accurate to the best of your  
9 knowledge and belief?

10 A. (Labrecque) I do.

11 MR. EATON: Could we have that marked as  
12 "Exhibit 2" for identification.

13 CHAIRMAN GETZ: So marked.

14 (The document, as described, was  
15 herewith marked as Exhibit 2 for  
16 identification.)

17 BY MR. EATON:

18 Q. Now, Mr. Wicker, did you have data requests served on  
19 the Company?

20 A. (Wicker) Yes. Yes, they were.

21 Q. And, they came from whom?

22 A. (Wicker) I believe there was one data request that came  
23 from the Office of Consumer Advocate, and a number of  
24 data requests that came from the Staff, Commission

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[WITNESS PANEL: WICKER|LABRECQUE]

1 Staff.

2 Q. And, you and Mr. Labrecque responded to those data  
3 requests?

4 A. (Wicker) That's correct.

5 Q. And, do you have a copy of those data requests in front  
6 of you?

7 A. (Wicker) We do.

8 Q. And, are those responses true and accurate to the best  
9 of your knowledge and belief?

10 A. (Wicker) Yes, they are.

11 MR. EATON: Mr. Chairman, I'd like the  
12 set for the Staff marked as "Exhibit 3" and the set, a  
13 single page document from the OCA marked as "Exhibit 4".

14 CHAIRMAN GETZ: Be so marked.

15 (The documents, as described, were  
16 herewith marked as Exhibit 3 and  
17 Exhibit 4, respectively, for  
18 identification.)

19 BY MR. EATON:

20 Q. Mr. Wicker, could you please summarize your testimony.

21 A. (Wicker) Yes. Public Service has entered into two  
22 separate three-year agreements with two Pinetree  
23 biomass plants, the Tamworth plant is 20 megawatts and  
24 the Bethlehem plant, which is 15 megawatts, to buy

[WITNESS PANEL: WICKER|LABRECQUE]

1 energy, capacity and New Hampshire Renewable Energy  
2 Certificates Class III during 2008, 2009, and 2010.  
3 And, we're seeking Commission approval for those  
4 arrangements under RSA 362-F:9.

5 Q. Could you briefly describe the terms of those  
6 agreements.

7 A. (Wicker) Yes. We have, as shown on the attached  
8 redacted versions of the agreements, we are buying  
9 energy at fixed prices. We're buying capacity from the  
10 two projects, based upon the ISO values that are  
11 entered into Public Service's accounts. And, we're  
12 buying New Hampshire RECs Class III, once the projects  
13 qualify for New Hampshire RECs Class III, at fixed  
14 prices also.

15 The projects are basically set up such  
16 that, if Commission approval is not forthcoming by the  
17 end of the year or if the Commission rejects these  
18 agreements, they turn into one-year agreements, which  
19 terminate as December 31st, 2008.

20 Q. Does the seller have any options concerning the sale of  
21 RECs to PSNH?

22 A. (Wicker) Yes. The seller can choose to retain the RECs  
23 and sell them to other RPS markets in New England.  
24 Currently, there are six markets in New England,

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1 sometimes the pricing is different between various  
2 markets. The requirements may be different between  
3 various markets. So, therefore, the seller can retain  
4 those RECs and sell them themselves into other markets.

5 Q. And, does PSNH completely lose out if a seller sells  
6 its RECs in another market?

7 A. (Wicker) No. The pricing for the RECs is set up such  
8 that, if there's a discount -- the price for the New  
9 Hampshire RECs that we're purchasing from the two  
10 projects are based upon the alternate compliance  
11 payment, discount to the alternate compliance payment.  
12 If the projects choose to retain some or all of the  
13 RECs and sell them elsewhere, the Company will still  
14 receive the discount from the alternate compliance, the  
15 difference between the discounted price and the  
16 alternate compliance price, which will go to the  
17 benefit of our customers.

18 Q. Do you have anything to add to your testimony,  
19 Mr. Wicker?

20 A. (Wicker) No.

21 Q. Mr. Labrecque, do you have anything to add to  
22 Mr. Wicker's testimony?

23 A. (Labrecque) No.

24 MR. EATON: The witnesses are available

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1 for cross-examination.

2 CHAIRMAN GETZ: Okay. Thank you.

3 Ms. Hollenberg.

4 MS. HOLLENBERG: Thank you. Good  
5 morning.

6 WITNESS LABRECQUE: Good morning.

7 WITNESS WICKER: Good morning.

8 MS. HOLLENBERG: I just have one series  
9 of questions to ask, and I'll direct these to Mr. Wicker.

10 CROSS-EXAMINATION

11 BY MS. HOLLENBERG:

12 Q. You just testified about the option that's available to  
13 the projects to allow them to sell the RECs to third  
14 parties. And, you would agree that this might result  
15 in circumstances where no RECs are available for PSNH  
16 to purchase under these contracts?

17 A. (Wicker) That is correct.

18 Q. And, however, you mentioned that the third -- that the  
19 payment -- the projects will be required to make a  
20 payment to PSNH in an amount that's equivalent to the  
21 discount off the New Hampshire Class III default REC  
22 price?

23 A. (Wicker) That is correct.

24 Q. And, would you agree that PSNH could use this payment

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[WITNESS PANEL: WICKER|LABRECQUE]

1 to meet its reasonably projected renewable portfolio  
2 requirements as required by RSA 362-F:9, I?

3 A. (Wicker) If you're referring to the payment we would  
4 make, yes, it could be used. It could not be used for  
5 RECs, required RECs, but it could be used as part of  
6 the payment that we have to make through the alternate  
7 compliance filing.

8 Q. And, I recognize that you're not a lawyer, but I also  
9 recognize that you did testify about the legal  
10 standards for approval of these agreements and give the  
11 opinion that the contracts meet these legal standards.  
12 Is it your opinion that an agreement, which could  
13 result in the sale of no RECs to PSNH, qualifies for  
14 consideration by the Commission under RSA 362-F:9, I,  
15 as a multiyear purchase agreement with renewable energy  
16 sources for certificates?

17 A. (Wicker) We have discussed this with our legal counsel,  
18 and it's our opinion that that's correct.

19 MS. HOLLENBERG: Thank you. No further  
20 questions.

21 CHAIRMAN GETZ: Ms. Amidon.

22 MS. AMIDON: Thank you. Good morning.

23 WITNESS WICKER: Good morning.

24 WITNESS LABRECQUE: Good morning.

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[WITNESS PANEL: WICKER|LABRECQUE]

1 BY MS. AMIDON:

2 Q. Referring to Exhibit 3, I'm looking at the response to  
3 Staff Data Request Number 7. And, this response  
4 relates to and provides general guidelines for the  
5 estimated cost and length of time to install the  
6 necessary selective catalytic reduction equipment to  
7 the facility so that they would qualify as Class III  
8 under RSA 362-F. At this point, what is your  
9 information about the dates that each of these plants  
10 would comply with the requirements of 362-F and be  
11 eligible for Class III RECs?

12 A. (Wicker) Based upon some information that we received  
13 actually this morning from representatives of the  
14 projects, we believe that the -- well, first of all, we  
15 understand that both projects are currently being  
16 retrofitted for meeting the requirements of the  
17 renewable portfolio standards. These retrofits,  
18 however, do not involve actually cutting into the  
19 systems that are currently in place, but they're  
20 building the additional components and putting together  
21 the electronics and the switch gear and all that sort  
22 of stuff necessary. As we said in our testimony, we  
23 believe there's probably about a 14-day period in which  
24 they will have to go off line in order to cut over and

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[WITNESS PANEL: WICKER|LABRECQUE]

1 install these new components.

2 Right now, it looks like Tamworth is  
3 planning to do a test for compliance with the RPS  
4 program sometime in April. And, Bethlehem, it looks  
5 like they will probably be doing it sometime in May.  
6 This is still subject, of course, to the end of  
7 construction and changes that may come about. So,  
8 those timeframes are a little different than what we  
9 thought originally, which was that Bethlehem would be  
10 available at the end of the first quarter and Tamworth  
11 at the end of the second quarter.

12 Q. So, most likely, they would be available at the  
13 beginning of the third quarter, is that correct?

14 A. (Wicker) No. Right now, we believe that Tamworth  
15 should be in compliance for New Hampshire RECs sometime  
16 in April or May, --

17 Q. Okay.

18 A. (Wicker) -- and Bethlehem sometime in May or June. So,  
19 a little better earlier than what we thought.

20 Q. And, just for a clarification, we've been talking about  
21 Class III RECs, but would you agree that Class III,  
22 under RSA 362-F, is "existing biomass, the production  
23 of electricity from any of the following, provided the  
24 source began operation prior to January 1, 2006". And,

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[WITNESS PANEL: WICKER|LABRECQUE]

1       it would be this category "(a) eligible biomass  
2       technologies having a gross nameplate capacity of  
3       25 megawatts or less"?

4   A.   (Wicker) That's correct.

5   Q.   And, then, there's an additional issue of compliance  
6       with the Department of Environmental Services, NOx and  
7       particulate emissions, is that correct?

8   A.   (Wicker) It's my understanding the stack test is  
9       necessary in order to comply or to produce the data  
10      that you would therefore file to be certified.

11  Q.   Okay. I would agree with that. I just wanted to get  
12      that on the record. Thank you. Turning now to Staff  
13      Data Request Number 9, would you just please go through  
14      this question and answer and explain it for the record.

15  A.   (Labrecque) Okay. Yes. The question, Question 9,  
16      asked us to explain the reasoning behind the contract  
17      provision to increase the on peak energy price during  
18      peak months if the monthly on peak capacity factor  
19      exceeds 95 percent. And, as stated in the response,  
20      that was a negotiated performance incentive. As we  
21      were going through the negotiation for this deal, the  
22      seller was not completely satisfied with the energy  
23      payment that they were receiving, you know, because we  
24      were obviously looking for a discount from the current

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1 market. We were looking to obtain a benefit for  
2 customers in this deal. So, one of the negotiating  
3 terms was simply that, in months in which they perform  
4 exceptionally well, they would protect PSNH's customers  
5 from the need to be making potentially costly  
6 replacement power purchases for outages. So, they  
7 would be rewarded in this subset of months with an  
8 additional energy payment.

9 Q. And, what do you mean by "performing well"?

10 A. (Labrecque) Simply based on their capacity factor,  
11 essentially running at 95 percent or greater.

12 Q. Okay. Thank you. Next, I want to turn to Data Request  
13 11. And, as you know, this question asked why the  
14 reasons for the variance in the percentages for the REC  
15 price, from 2008 to 2010, there's different percentages  
16 for each year. Could you please go through the answer  
17 and provide any additional information that you think  
18 might help us understand that?

19 A. (Labrecque) Yes. The way the REC purchase is  
20 structured, it looks to the seller like an option, a  
21 fallback option, that they would have a market to sell  
22 to, to PSNH, Class III RECs, in the event that their  
23 alternate market, which right now we're assuming to be  
24 Connecticut Class I, which they would also qualify for,

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1 and which currently has a market price of approximately  
2 \$50 or more. The ability to sell to PSNH at the fixed  
3 percentages of the then current ACP provides some value  
4 to the seller, and that value increases the further out  
5 in time you go. So, over a three-year deal, the value  
6 of that option to them is worth more in year two and  
7 three than it is in year one. So, we structured the  
8 discount off the ACP, the credit that PSNH customers  
9 will earn, to increase over time to reflect that value.

10 Q. Thank you. In Exhibit 1, I have a question about the  
11 redacted -- I guess its called a "confirmation", which  
12 appears at the end of the testimony. And, on Page 2,  
13 one of the -- of that confirmation, there's a section  
14 entitled "Fuel Price Adjustment". Would you go through  
15 the fuel price adjustment mechanism please. And, I'm  
16 not -- and, by the way, I'm not asking for any  
17 confidential information in this. I'm looking at the  
18 redacted testimony, and that's what I'm requesting.

19 A. (Labrecque) Yes. This fuel price adjustment was  
20 another negotiated term that addressed the seller's  
21 concern that they had over the ability to fix or lock  
22 in their fuel price over a three-year term. Whereas  
23 their energy payments were fixed, they were concerned  
24 with the variability of their wood price. So, we've

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1 structured an adjustment, which will be performed  
2 quarterly, where there's an initial index that will be  
3 set, and that's going to be roughly equivalent to their  
4 actual average 2007 delivered wood price. Throughout  
5 the course of the deal, in any quarter in which their  
6 actual average delivered wood price deviates, let's  
7 just talk on the plus side now, exceeds that initial  
8 index, there will be a fuel price adjustment based on  
9 \_\_\_\_\_ of the difference between the actual and the  
10 index. There's also caps on this adjustment in each  
11 year, so that PSNH's exposure to this adjustment clause  
12 is limited. The adjustment also works during quarters  
13 in which their fuel price actual average is less than  
14 the initial index, in which cases PSNH would receive an  
15 additional discount on the contract terms.

16 MS. AMIDON: Thank you. I'd like to ask  
17 Attorney Eaton if any of that information was  
18 confidential?

19 MR. EATON: Yes, I believe it is. I  
20 wonder if we could have that portion of the transcript --

21 CHAIRMAN GETZ: Well, let's have the  
22 parties work with Mr. Patnaude to make sure that the  
23 mention of the confidential material is redacted in the  
24 public transcript. You can do that after the hearing

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1 closes this morning.

2 MS. AMIDON: Great.

3 BY MS. AMIDON:

4 Q. I think I just have one final question. Of course,  
5 it's always a mistake to say that. On Page 3 of the  
6 testimony, PSNH states that it "would like to be able  
7 to use the structure of these arrangements to purchase  
8 additional renewable power". What steps, in addition  
9 to entering into these contracts, has PSNH taken to  
10 help it meet the RPS requirements for 2008 and beyond?

11 A. (Wicker) We're talking about Class III right now?

12 Q. Yes.

13 A. (Wicker) I think, as we mentioned in here, we have had  
14 some discussions with other projects. We're looking to  
15 see where we can find some value to buy RECs, again,  
16 along with capacity and energy, over a three-year  
17 period or something like that. So, we're more  
18 concerned with the specifics, the numbers and all that  
19 sort of stuff, so that we don't find that, you know, if  
20 we're negotiating with another project, that they use  
21 these values to start negotiations, as opposed to where  
22 we want to be. So, that's why we've asked that the  
23 structure and the numbers in here be redacted, such  
24 that we can continue to negotiate, without giving an

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1           unfair advantage to anybody we may be negotiating with.

2    Q.    Okay.  But you have the, for example, the fuel  
3           adjustment mechanism and the variance in the percentage  
4           prices for the RECs that you will use in -- or, you  
5           expect to use in further contracts, if necessary?

6    A.    (Wicker) You always try to start out with the best deal  
7           you can get then --

8    Q.    Yes.

9    A.    (Wicker) -- and work toward something that both parties  
10          can agree with.  So, we would, depending on the  
11          situation, start out with the lowest prices that are  
12          reasonable to open negotiations, and then move toward  
13          something that we can hopefully agree -- both parties  
14          will agree with.  I guess I can't answer the question  
15          --

16   Q.    Yes.  But, I mean, the structure of the arrangement  
17          includes those pieces.  It was just a -- it was a  
18          friendly question.

19   A.    (Wicker) I mean, we would not necessarily offer  
20          everything.  And, we may have to make other deals  
21          slightly different.  But there are many components you  
22          can put into this to make it work.  And, it all depends  
23          a lot on what the projects needs are, and also what our  
24          -- the Company's needs are.  And, you have to sort of

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1 balance all these things until you come up with  
2 something that works. As Mr. Labrecque said, sometimes  
3 when you can't quite reach something, you need to find  
4 something else you can add to make the pot a little  
5 sweeter for the deal to be done.

6 MS. AMIDON: Understood. That's all we  
7 have. Thank you.

8 CHAIRMAN GETZ: Thank you.

9 CMSR. BELOW: I do have one question.

10 BY CMSR. BELOW:

11 Q. On Page 6 of your revised testimony, starting at Line  
12 2, you state that "RSA 362-F:9, I, allows the  
13 Commission to authorize a utility to enter into a  
14 multi-year purchase agreement for renewable energy  
15 certificates and/or energy from renewable energy  
16 sources if it finds the agreement in the public  
17 interest." In fact, doesn't the statute state that the  
18 Commission may authorize "such company or companies to  
19 enter into multi-year purchase agreements with  
20 renewable energy sources for certificates in  
21 conjunction with or independent of purchase power  
22 agreements from such sources", which is a little  
23 different than "and/or". So, would you agree that, you  
24 know, "and/or" is not really the accurate description

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1 of the statute there? It's "in conjunction with or  
2 independently of".

3 A. (Wicker) That's what the statute reads. Yes, you're  
4 correct.

5 Q. Okay.

6 A. (Wicker) Whether that's --

7 Q. Well, the "or" would suggest in your testimony that the  
8 statute authorizes, under RSA 362-F, the ability for us  
9 to authorize multi-year purchase agreements just for  
10 the energy, and not for RECs. Is that your contention  
11 that that's what the statute does or not?

12 A. (Wicker) I'm guess I'm not quite qualified to --

13 CHAIRMAN GETZ: I think it's a legal  
14 conclusion. Mr. Eaton, do you want to try and respond to  
15 that?

16 MR. EATON: I agree with Commissioner  
17 Below that the statute is intended to approve agreements,  
18 multi-year agreements, for the purchase of renewable  
19 energy certificates. And, that can be done in conjunction  
20 with a purchase of energy or it can be done independently  
21 of a purchase of energy. And, that the approval of the  
22 power purchase would be more of an after-the-fact  
23 arrangement, when PSNH submits those expenses as part of  
24 its Energy Service docket.

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1 CMSR. BELOW: Okay. Thank you.

2 CHAIRMAN GETZ: I've always found that a  
3 good way to begin a response is "I agree with Commissioner  
4 Below". I had two, I think largely administrative issues  
5 I wanted to follow up on. And, I'm not sure if these are  
6 really for Mr. Wicker or for you, Mr. Eaton.

7 BY CHAIRMAN GETZ:

8 Q. The first is really the effective date of the terms of  
9 the contracts. And, I guess, well, the Tamworth  
10 arrangement is set to begin April 1; the Bethlehem  
11 arrangement is set to begin January 1. Do we have any  
12 issues that we need to address with respect to  
13 Bethlehem, inasmuch as we're beyond January 1 at this  
14 point?

15 MR. EATON: Well, the -- I guess we'll  
16 ask Mr. Wicker.

17 WITNESS WICKER:

18 BY THE WITNESS:

19 A. (Wicker) No, that's correct. The Bethlehem deal began  
20 on January 1. If it does not get approved or is  
21 rejected by the end the year, it becomes a short-term  
22 agreement. Last year, 2007, we bought power from  
23 Bethlehem on a one-year deal, which was short-term,  
24 which we considered to be "short-term". It was filed

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1 with the Commission, but it was not -- approval was not  
2 sought -- we did not seek approval for that deal with  
3 the Commission, but we filed with the Commission, and  
4 it is put into the Energy Service rate and reconciled  
5 as other purchases.

6 BY CHAIRMAN GETZ:

7 Q. So, is it the short-term rate is applicable until we  
8 rule on the effectiveness of the Bethlehem deal?

9 A. (Wicker) No, the rates that are listed here are the  
10 rates that we are paying now for Bethlehem. We  
11 consider it a "short-term deal with fixed prices", not  
12 "short-term rates".

13 MR. MULLEN: Could I just follow up on  
14 that, just to clarify something?

15 BY MR. MULLEN:

16 Q. So, beginning January 1st, there are no RECs involved.  
17 It's only the energy and capacity prices in the  
18 contracts, is that correct?

19 A. (Wicker) That's correct. There are -- Neither project  
20 is certified yet to produce New Hampshire REC Class III  
21 RECs.

22 Q. And, the RECs will only kick in once they're eligible?

23 A. (Wicker) That's correct.

24 MR. MULLEN: Okay. Thank you.

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1 CHAIRMAN GETZ: Did you have anything  
2 else on that, Mr. Eaton?

3 MR. EATON: No. It's a short-term  
4 contract until it's approved by the Commission. And, the  
5 prices for the energy and capacity are now being paid by  
6 PSNH upon the effective date. And, Mr. Wicker talked  
7 about a stack test, which is a test done for Department of  
8 Environmental Services. And, that's a necessary condition  
9 under the Commission's rules for classifying projects to  
10 produce RECs, is that the appropriate environmental test  
11 has been performed and approved by the Department of  
12 Environmental Services.

13 CHAIRMAN GETZ: Okay. Thank you. The  
14 other issue goes to the motion for confidentiality. If  
15 I'm understanding it correctly, you would like the energy  
16 prices protected, that's correct?

17 MR. EATON: Yes.

18 CHAIRMAN GETZ: And, for how long? Is  
19 there an issue? I understand the argument that you want  
20 to keep these prices confidential with respect to efforts  
21 to negotiate best prices in succeeding contracts. But is  
22 there some point where these prices would become  
23 confidential or was there any thought given to that issue?

24 MR. EATON: No. And, maybe I'll ask the

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1 witnesses how long they would expect these prices to be  
2 confidential?

3 CHAIRMAN GETZ: I'm assuming this is  
4 going to come up in the context of a default service price  
5 proceeding as well, but --

6 WITNESS WICKER: Well, the prices get  
7 reported, they will be reported every month. When we, to  
8 produce our summary of all purchases from qualifying  
9 facilities, these still are qualifying facilities, and I  
10 don't remember, does that get submitted to the Commission  
11 on a quarterly basis? I'm trying to --

12 MR. EATON: That gets submitted to the  
13 Commission on at least a quarterly basis, yes. I don't  
14 know if these prices will be separated out or be included  
15 with all purchases from qualifying facilities.

16 CHAIRMAN GETZ: Okay. I guess it would  
17 be helpful to have some definition or agreement about how  
18 long and in what context these prices should be protected.

19 MR. EATON: We can discuss that with the  
20 parties and inform the Commission.

21 CHAIRMAN GETZ: Yes. If there's a need  
22 to follow up in writing on that, then that would be  
23 useful. Okay. Any redirect, Mr. Eaton?

24 MR. EATON: No, your Honor.

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1 CHAIRMAN GETZ: Okay. Anything further  
2 for these witnesses?

3 (No verbal response)

4 CHAIRMAN GETZ: Then, you're excused.  
5 Thank you, gentlemen. Any objection to striking  
6 identifications and admitting the exhibits as evidence in  
7 this proceeding?

8 (No verbal response)

9 CHAIRMAN GETZ: Then, hearing no  
10 objection, they will be admitted into evidence. Anything  
11 else, before providing the opportunity for closings?

12 (No verbal response)

13 CHAIRMAN GETZ: Hearing nothing, then  
14 we'll begin with you, Ms. Hollenberg.

15 MS. HOLLENBERG: Thank you. The Office  
16 of Consumer Advocate supports the Company's request for  
17 approval of these two purchase power agreements.

18 CHAIRMAN GETZ: Thank you. Ms. Amidon.

19 MS. AMIDON: Staff supports PSNH's  
20 request for the approval of these two power agreements.  
21 And, our position is that it does comply with the  
22 requirements of 362-F:9, I, and meets the public interest  
23 findings that are required under 362-F:9.

24 In addition, we support PSNH's request

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1       for confidential treatment of the information contained in  
2       the confidential filing. And, we will work with PSNH and  
3       the Office of Consumer Advocate and get back to you with  
4       responding in writing to the question that you raised.

5                       CHAIRMAN GETZ: Thank you. Mr. Eaton.

6                       MR. EATON: Thank you. We believe these  
7       contracts are in the public interest and comply with the  
8       statutory standard. And, we request that the Commission  
9       approve the contracts and grant the Motion for Protective  
10      Order.

11                      CHAIRMAN GETZ: Okay. Thank you,  
12      everyone. We'll close the hearing and take the matter  
13      under advisement.

14                      (Whereupon the hearing ended at 10:44  
15                      a.m.)

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