

BEFORE THE NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DE 09-035

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, INC.

Distribution Service Rate Case

**OFFICE OF CONSUMER ADVOCATE'S MOTION TO COMPEL
PSNH'S RESPONSES TO SET 2 DATA REQUESTS**

The Office of Consumer Advocate (OCA) respectfully requests that the N.H. Public Utilities Commission (Commission) compel Public Service Company of New Hampshire (PSNH) to respond to certain set 2 data requests. In support, the OCA states the following facts and law.

I. Introduction

1. On June 30, 2009, PSNH filed proposed new tariff pages seeking an increase in its distribution rates of \$51,000,000, or 4.2% overall, annually.¹ This increase, along with other proposals in the filing, if approved, would result an increase in distribution revenue to be received from each class of customers by a uniform percentage of 20.95%.
2. RSA 378:7 authorizes the Commission to fix rates after a hearing upon determining that the rates are just and reasonable. In determining whether rates are just and reasonable, the Commission must balance the customers' interest in paying no higher rates than are required with the investors' interest in obtaining a reasonable return on their investment. *Eastman Sewer Company, Inc.*, 138 N.H. 221,225 (1994).

¹ Previously, on April 15, 2009, PSNH filed a petition for temporary distribution rates pursuant to RSA 378:27, which was addressed in a hearing on July 13, 2009.

10. On October 30, 2009, the Commission issued Order No. 25,037 approving in part and denying in part PSNH's Motions for Confidential Treatment. In that Order, the Commission required PSNH to revise its filing in order to provide information that forms the basis for the OCA's data requests. As a result, the OCA believes that PSNH must provide responsive answers to its data requests.

II. Standard of Review – Discovery

1. Puc 203.09 (a) authorizes the OCA to conduct discovery in this proceeding.
2. The scope of discovery in Commission proceedings is broad and extends to information that is relevant to the proceeding or reasonably calculated to lead to the discovery of admissible evidence. See Re Public Service of New Hampshire, 86 NH PUC 730, 731 (2001) (citation omitted); and Re Public Service Company of New Hampshire, 89 NH PUC 226, 229 (2004) (citation omitted).
3. The Commission will deny discovery requests only when it “can perceive of no circumstance in which the requested data will be relevant.” Re Public Service of New Hampshire, 86 NH PUC at 731-732; and Re Public Service Company of New Hampshire, 89 NH PUC at 229.
4. The underlying purpose of discovery in legal proceedings is to reach the truth. See Scotsas v. Citizens Insurance Co., 109 N.H. 386, 388 (1969), citing Hartford Accident &c. Co. v. Cutter, 108 N.H. 112, 113 (1967).
5. A party in a legal proceeding in New Hampshire is entitled to “be fully informed and have access to all evidence favorable to his side of the issue. This is true whether the issue is one which has been raised by him or by his opponents and whether the evidence

9. The OCA, as the government agency charged with representing the interests of PSNH's residential ratepayers, is expressly required to provide protection from disclosure to the public of confidential information provided by PSNH in response to discovery. See RSA 91-A:5.
10. Moreover, PSNH has the ability to seek from the Commission protection from disclosure of this confidential information. See Puc 203.08. This protection could include a Commission directive to the OCA that the information not be disclosed to the public. Puc 203.08 (j).
11. The OCA attempted to resolve its dispute with PSNH, as required by Puc 203.09 (i)(4), which efforts included an offer to enter into a formal protective agreement with PSNH. These efforts, however, were unsuccessful.

III. PSNH's Incomplete or Non-responsive Responses

A. Q-OCA-009

12. In its data requests on PSNH's permanent rate filing, the OCA asked PSNH for information about "the costs included in this Distribution rate case [for the following positions: VP-Generation, Sen VP-Transmission, VP-Transmission Strategy and Operations, and VP-Transmission Projects, Engineering, and Maintenance.]" See PSNH Response to Q-OCA-009 (Attachment A).
13. Although PSNH explained that it included costs associated with these non-distribution positions "for simplicity purposes," PSNH's response to this data request did not quantify the costs associated with these positions. *Id.*

Protective Order and Request for Waiver Regarding Officer Compensation ... filed on June 30, 2009” (Motion).³ Id.

19. Pursuant to Order No. 25, 037, PSNH must comply with Puc 1604.01(a)(14). Among other things, “invasion of privacy” of company employees is simply not a basis for a waiver, PSNH is not entitled to a waiver and should file the required compensation information with the Commission, with a complete and unredacted copy to the OCA.
20. In addition, as stated above the OCA believes that Order No. 25,037 issued by the Commission on October 30, 2009 requires PSNH to provide information related to these data requests. The information sought by the OCA is appropriate for discovery, and is sufficiently related to that which the Company must provide in order to comply with Order No. 25,037. The Commission’s Order expressly contemplates discovery on these issues: “our ruling is not be interpreted as a ruling on the scope of possible discovery” Order No. 25,037 at p. 3.
21. Finally, and perhaps most importantly, PSNH waived its right to object to the OCA’s data requests at issue here because it failed to object to the data requests within 10 days of receipt of the data requests, as required by Puc 203.09(f) and (h). The data requests were propounded on September 25, 2009, as required by the procedural schedule approved by the Commission in this docket. However, PSNH did not object to the data requests until October 13, 2009, eighteen days after they were propounded.

³ As mentioned earlier in this pleading, the OCA filed today a response to PSNH’s Motion for Protective Order and Request for Waiver Regarding Officer Compensation.”



**Public Service
of New Hampshire**

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The Northeast Utilities System

October 13, 2009

Attorney Meredith A. Hatfield
Office of Consumer Advocate
23 South Fruit Street,
Concord, New Hampshire 03301-2429

Re: PSNH Distribution Rate Proceeding DE 09-035

Dear Attorney Hatfield:

Pursuant to N.H. Code Admin. Rule Puc §203.09, Public Service Company of New Hampshire (PSNH) hereby objects to a data request propounded by The Office of Consumer Advocate which PSNH received on September 25, 2009. The data request is as follows:

Request OCA-02, Q-OCA-011

Question: What are the titles related to positions 1 and 2 in the response to OCA-T-013 (b) for 2008?

PSNH objects to this request because a response would disclose confidential employee compensation information. The names of officers and their titles are easily linked. The purpose of PSNH's June 30, 2009 Motion for Protective Order and Request for Waiver Re: Officer Compensation relating to Standard Filing Request No. 14 [Puc § 1604.01(a)(14)] was not to disclose an employee's compensation unless it was already publicly disclosed to the Securities and Exchange Commission or the Federal Energy Regulatory Commission. The names of the officers whose salaries are not already disclosed were redacted from the response to SFR 14 and the response to OCA-T-013 (b). Such disclosure would constitute an invasion of privacy.

A Motion for Protective Order for this request would not cure this privacy problem. PSNH and other Northeast Utilities subsidiaries do not disclose individual employee's compensation. To the best of my knowledge this policy has been upheld by this Commission and PSNH has not been ordered to disclose individual salary information.

Very truly yours,

Gerald M. Eaton
Senior Counsel

cc: Service List

Public Service Company of New Hampshire
Docket No. DE 09-035

Data Request OCA-02
Dated: 09/25/2009
Q-OCA-009
Page 1 of 1

Witness: Timothy J. Griffin, Keith C. Coakley
Request from: Office of Consumer Advocate

Question:

Page 2 of the response to OCA 01-042 lists the following positions: VP-Generation, Sen VP-Transmission, VP-Transmission Strategy and Operations, and VP-Transmission Projects, Engineering, and Maintenance. For each position please explain the costs included in this Distribution rate case and why they are included.

Response:

Certain forms of compensation (such as stock-based compensation) for the officers listed above are allocated based on how total service company costs are charged to all of NU 's subsidiaries. This methodology reflects the work done by all officers that benefits all of Northeast Utilities ' subsidiaries or business lines, including PSNH Distribution. It is also used for simplicity purposes, as customized allocation methodologies for all officers and all compensation plans would be very burdensome to administer. The result of the allocation methodology used is that some costs for officers not directly tied to PSNH Distribution will be charged to PSNH Distribution, while some level of compensation costs for PSNH Distribution officers will be charged to other Northeast Utilities ' subsidiaries or business lines other than PSNH Distribution.

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Data Request OCA-02
Dated: 09/25/2009
Q-OCA-011
Page 1 of 1

Witness: Robert A. Baumann, Keith C. Coakley
Request from: Office of Consumer Advocate

Question:

What are the titles related to positions 1 and 2 in the response to OCA-T-013 (b) for 2008?

Response:

Position titles 1 through 9 are not disclosed due to confidentiality. Compensation is disclosed individually for four officers listed in the company's response to Q-OCA-013(b) because their compensation is also disclosed publicly in the Northeast Utilities proxy statement for the annual meeting of shareholders filed with the U.S. Securities and Exchange Commission, as dictated by the Securities and Exchange Commission by rule 402(c) of Regulation S-K (17 CFR § 229.402(c)) or successor.

This request is superseded by the Motion for Protective Order and Request for Waiver Regarding Officer Compensation ("Motion") filed on June 30, 2009. The names of officers and their titles are easily linked. The purpose of PSNH's Motion regarding Standard Filing Request No. 14 [Puc § 1604.01(a)(14)] was not to disclose the employee's compensation unless it was already publicly disclosed to the Securities and Exchange Commission or the Federal Energy Regulatory Commission. The names of the officers whose salaries are not already disclosed were redacted from the response to SFR 14 and the response to OCA-T-013 (b). Such disclosure would constitute an unnecessary invasion of privacy.

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Docket No. DE 09-035

Data Request OCA-01
Dated: 05/06/2009
Q-OCA-T-013
Page 1 of 3

Witness: Robert A. Baumann
Request from: Office of Consumer Advocate

Question:

The following questions relate to PSNH's FERC Form 1 for the period end of 2008/Q4:

- a. Regarding PSNH's FERC Form 1 for the period end of 2008/Q4: Page 103, Corporations Controlled by Respondent, please explain any transactions between Properties, Inc. or PSNH Funding LLC which impact or are included in the requested rate increase.
- b. Regarding PSNH's FERC Form 1 for the period end of 2008/Q4: Page 104, Officers, please provide a Table showing Total Compensation for each of the 15 listed positions for which PSNH is seeking above the line treatment in this rate case, the amount allocated to the PSNH Distribution system; for 2007, 2008, and the pro-formed amount if different that the 2008 amount.
- c. Regarding PSNH's FERC Form 1 for the period end of 2008/Q4: Page 110, Comparative Balance Sheet, line 21, Investment in Subsidiary Companies (account 123.1) was reported as \$8,362,075 as of 12/31/08. For purposes of establishing the Capital structure for the rate case was this amount included as Common Equity? If so, how was the related Earnings of \$524,107 as reported on page 225, column (e) recognized in the filing?
- d. Regarding PSNH's FERC Form 1 for the period end of 2008/Q4: Is any portion of the Non current Portion of Allowances, page 110 line 23, of \$26,335,229 as of 12/31/08, included in Rate Base in this Distribution system rate filing? If so, why?
- e. Regarding PSNH's FERC Form 1 for the period end of 2008/Q4: Please reference page 123.2 paragraph D regarding Revenues, Unbilled Revenues:
 - i. Did PSNH use the identical daily load cycle method for estimating unbilled revenues at the beginning and end of 2008? If not, please explain.
 - ii. Because the December Ice Storm impacted meter reading, how was that treated here?
- f. Regarding PSNH's FERC Form 1 for the period end of 2008/Q4: Page 204, Electric Plant in Service, shows additions of \$22,529,837 to account 303, Misc. Intangible Plant. Please explain this amount, what specifically it is comprised of, and whether it is included in the rate base calculation in this filing in whole or part?
- g. Regarding PSNH's FERC Form 1 for the period end of 2008/Q4: Please explain the Forfeited Discounts in account 450 of \$2,802,073 in 2008 on page 300, Electric Operating Revenues. What portion of such relates to this Distribution rate case?
- h. Regarding PSNH's FERC Form 1 for the period end of 2008/Q4: Pages 322 and 323 include Electric O & M expenses. Please explain the 2008 totals versus 2007 for the following accounts to the extent those accounts are included in the Distribution rate filing:
 - i. 580, Operation Supervision and Engineering
 - ii. 581, Load Dispatching
 - iii. 583, Overhead Line Expenses
 - iv. 584, Underground Line Expenses
 - v. 588, Misc. Expenses
 - vi. 590, Maintenance Supervision and Engineering
 - vii. 591, Maintenance of Structures
 - viii. 592, Maintenance of Station Equipment
 - ix. Maintenance of Line Transformers
 - x. 903, Customer Records and Collection Expenses
 - xi. 904, Uncollectible Accounts
 - xii. 913, Advertising Expenses
 - xiii. 923, Outside Services Employed
 - xiv. 925, Injuries and Damages
 - xv. 930.2, Miscellaneous General Expenses

- i. Regarding PSNH's FERC Form 1 for the period end of 2008/Q4: On page 350, Regulatory Commission Expenses, line 18 shows \$876,560 for Legal Expenses. To the extent any of these costs are incorporated in the Distribution system rate case please provide a detailed breakdown and support for inclusion in the rate filing.
- j. Regarding PSNH's FERC Form 1 for the period end of 2008/Q4: Are any of the amounts shown on pages 352-353 lines 10-17 for Research Development and Demonstration Activities are included in the Distribution rate filing? If so, why?

Response:

- a. Properties, Inc. (PI) is a wholly owned subsidiary of PSNH that invests in real estate. During the 2008 test year, PI leased the following properties to PSNH:

1580 Elm Street, Manchester
Berlin Area Work Center (AWC) on Jericho Road, Berlin
Chocorua AWC
Epping AWC
Lancaster AWC
Milford AWC
Portion of Nashua AWC
Newport AWC
Rochester AWC

All rental costs for the properties listed above would be included in distribution costs (segment 6D).

The PSNH Funding LLCs are the issuers of the rate reduction bonds (RRBs). All RRB related activities are accounted for in the stranded cost business segment (6R).

- b. The attached spreadsheets show total compensation, and compensation allocated to the PSNH distribution system, for each position listed on PSNH's FERC Form 1 for the period ending December 31, 2008. Total compensation has been determined using the definitions and methodology prescribed by the Securities and Exchange Commission for reporting total compensation in the Summary Compensation Table in annual proxy statements of publicly traded companies. Compensation is shown for 2007, 2008 and projected 2009. Changes in positions from year-to-year are noted in footnotes under each year's table.

Adjustments to 2008 compensation to produce pro forma total compensation for 2009 include: (a) 2009 salary reflects the salary rate that was in effect on January 1, 2009; (b) annual incentive for one new incumbent was projected.

- c. PSNH uses its legal entity capital structure in all its rate filings. The \$8.4M investment in subsidiary companies is an asset, and accordingly, is not included in common equity. The \$524,000 of earnings was accounted for as non-operating income (reference FERC Form 1 page 117, line 36) and is not included in the PSNH rate filing.
- d. No, the allowances are related to the generation segment.
- e. Yes, PSNH used the same daily load cycle method for estimating unbilled revenues throughout all of 2008. The impact of the December ice storm meter readings was addressed as part of the normal unbilled revenue calculation.

- f. Additions to account 303, Misc. Intangible Plant of \$22,529,837 is comprised of software projects related to:

Customer Information System Integration (\$22,381,058) - Distribution
Work Management System (\$79,580) - Distribution
Software Interconnection Database (\$69,199) - Transmission.

The distribution segment assets cited above in Account 303 are included in the rate base calculation in this filing.

- g. Forfeited discounts are late payment charges. This entire amount was booked to the distribution segment and included in the distribution operating revenues in PSNH's filing.
- h. Pursuant to a telephone discussion with the OCA, attached are tables showing each of the referenced FERC accounts by subaccount for both 2007 and 2008.
- i. Approximately \$453,800 of the \$876,560 is included in the temporary rate filing. Please see the attachment below for the supporting data. The amounts are largely payroll costs for law department employees. \$15,470 billed from Steptoe & Johnson relates to services provided for work performed at the FERC for a Unitil delivery service agreement. That amount will be reallocated to wholesale. \$27,608 billed from Brattle Group relates to a market based rate update filing before the FERC and will be reallocated to the generation function.
- j. Of the \$269,000 of Electric Power Research Institute (EPRI) related project costs identified on lines 10-17 of Pages 353-353 of the FERC Form 1, approximately \$146,000 are allocated and reflected in PSNH's distribution (6D) test year rate filing operating expenses. The remaining \$123,000 of costs were charged to other business segments.

EPRI projects directly benefit PSNH's operations through advances in overhead distribution engineering related to greater reliability, lower line losses, and greater operational efficiencies (including lower inventory levels and O&M savings), the creation of diagnostic tools and sensors to determine cable life in underground distribution systems, improvements in substation maintenance management, the impact of plug-in hybrid vehicles, and remediation methodologies of contaminated sites.

**Total Compensation
2007**

Position	Name of Officer	Total Compensation	Amount Allocated to PSNH Distribution
Chairman	Charles W. Shivery	\$ 7,190,938	\$ 566,321
Executive Vice President & Chief Financial Officer	David R. McHale	\$ 2,108,920	\$ 167,068
Chief Executive Officer	Leon J. Olivier	\$ 1,812,035	\$ 144,383
Senior Vice President & General Counsel	Gregory B. Butler	\$ 1,642,172	\$ 130,698
Position 1		\$ 895,196	\$ 718,089
Position 2		\$ 369,423	\$ 259,359
Position 3		\$ 747,008	\$ 60,625
Position 4		\$ 708,999	\$ 54,216
Position 5		\$ 707,463	\$ 52,613
Position 6		\$ 466,984	\$ 39,524
Position 7		\$ 453,780	\$ 37,869
Position 8		\$ 262,642	\$ 15,373

Notes:

(1) Positions include the following (in alphabetical order): Chairman, Chief Executive Officer, President and Chief Operating Officer, Senior Vice President and Chief Financial Officer, Senior Vice President and General Counsel, Senior Vice President-Transmission, Vice President and Treasurer, Vice President-Accounting and Controller, Vice President-Energy Delivery and Generation, Vice President-Shared Services and Secretary, Vice President-Transmission Projects, Engineering and Maintenance, and Vice President-Transmission Strategy and Operations.

(2) Vice President - Shared Services and Secretary positions were combined in 2007.

(3) Vice President - Energy Delivery and Vice President - Generation positions were combined in 2007.

(4) Except as noted below, values shown in each column are determined as if reported in the Summary Compensation Table required by Item 402(c) of Regulation S-K (17 CFR § 229.402(c)), or successor, appearing in the proxy statement for the company's annual meeting of shareholders filed with the U.S. Securities and Exchange Commission.

(5) Change in pension value for officers that are not reported in proxy statements or Utility 10-K is estimated using service cost and interest cost related to each such officer.

(6) Amount of compensation allocated to PSNH Distribution represents amount and percentage of compensation charged to Utility Capital Accounts and/or Operating Expense (above-the-line), reflecting extent each category of compensation was allowed in rates.

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 Data Request OCA-01
 Dated: 05/06/2009
 Q-OCA-T-013 b. Attachment

**Total Compensation
2008**

Position	Name of Officer	Total Compensation	Amount Allocated to PSNH Distribution
Chairman	Charles W. Shivery	\$ 8,094,288	\$ 744,880
Chief Executive Officer	Leon J. Olivier	\$ 2,133,507	\$ 201,512
Senior Vice President and Chief Financial Officer	David R. McHale	\$ 2,190,205	\$ 194,474
Senior Vice President and General Counsel	Gregory B. Butler	\$ 1,711,666	\$ 161,905
Position 1		\$ 863,170	\$ 692,791
Position 2		\$ 404,373	\$ 300,725
Position 3		\$ 854,225	\$ 82,349
Position 4		\$ 757,094	\$ 64,354
Position 5		\$ 574,372	\$ 55,571
Position 6		\$ 740,717	\$ 54,494
Position 7		\$ 514,606	\$ 49,563
Position 8		\$ 479,585	\$ 45,721
Position 9		\$ 332,320	\$ 32,463

Notes:

(1) Positions include the following (in alphabetical order): Chairman, Chief Executive Officer, President and Chief Operating Officer, Senior Vice President and Chief Financial Officer, Senior Vice President and General Counsel, Senior Vice President-Transmission, Vice President and Secretary, Vice President and Treasurer, Vice President-Accounting and Controller, Vice President-Energy Delivery and Generation, Vice President-Shared Services, Vice President-Transmission Projects, Engineering and Maintenance, and Vice President-Transmission Strategy and Operations.

(2) Vice President - Energy Delivery and Vice President - Generation positions were combined in 2008.

(3) Except as noted below, values shown in each column are determined as if reported in the Summary Compensation Table required by Item 402(c) of Regulation S-K (17 CFR § 229.402(c)), or successor, appearing in the proxy statement for the company's annual meeting of shareholders filed with the U.S. Securities and Exchange Commission.

(4) Change in pension value for officers that are not reported in proxy statements or Utility 10-K is estimated using service cost and interest cost related to each such officer.

(5) Amount of compensation allocated to PSNH Distribution represents amount and percentage of compensation charged to Utility Capital Accounts and/or Operating Expense (above-the-line), reflecting extent each category of compensation was allowed in rates.

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 Data Request: OCA-01
 Dated: 05/06/2009
 Q-OCA-T-013 b. Attachment

**Total Compensation
2009 Pro-Forma**

Position	Name of Officer	Total Compensation	Amount Allocated to PSNH Distribution
Chairman	Charles W. Shivery	\$ 8,094,288	\$ 744,880
Chief Executive Officer	Leon J. Olivier	\$ 2,133,507	\$ 201,512
Executive Vice President and Chief Financial Officer	David R. McHale	\$ 2,190,205	\$ 194,474
Senior Vice President and General Counsel	Gregory B. Butler	\$ 1,711,666	\$ 161,905
Position 1		\$ 863,170	\$ 692,791
Position 2		\$ 407,351	\$ 302,940
Position 3		\$ 404,373	\$ 300,725
Position 4		\$ 854,225	\$ 82,349
Position 5		\$ 574,372	\$ 55,571
Position 6		\$ 740,717	\$ 54,494
Position 7		\$ 479,585	\$ 45,721
Position 8		\$ 332,320	\$ 32,463
Position 9		\$ 332,102	\$ 22,298

Notes:

- (1) Positions include the following (in alphabetical order): Chairman, Chief Executive Officer, Executive Vice President and Chief Financial Officer, President and Chief Operating Officer, Secretary, Senior Vice President and General Counsel, Senior Vice President-Transmission, Vice President - Energy Delivery, Vice President – Generation, Vice President - Shared Services, Vice President and Treasurer, Vice President-Transmission Projects, Engineering and Maintenance, and Vice President-Transmission Strategy and Operations.
- (2) 2009 compensation was projected from 2008 actual compensation levels by annualizing January 1, 2009 salary rates and estimating the 2009 annual incentive for one new incumbent.
- (3) Except as noted below, values shown in each column are determined as if reported in the Summary Compensation Table required by Item 402(c) of Regulation S-K (17 CFR § 229.402(c)), or successor, appearing in the proxy statement for the company's annual meeting of shareholders filed with the U.S. Securities and Exchange Commission.
- (4) Change in pension value for officers that are not reported in proxy statements or Utility 10-K is estimated using service cost and interest cost related to each such officer.
- (5) Amount of compensation allocated to PSNH Distribution represents amount and percentage of compensation charged to Utility Capital Accounts and/or Operating Expense (above-the-line), reflecting extent each category of compensation was allowed in rates.