

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

April 4, 2012 - 10:07 a.m.
Concord, New Hampshire

DAY 1
MORNING SESSION ONLY

NHPUC APR18'12 PM 3:40

RE: DE 10-261
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE:
Least Cost Integrated Resource Plan.

PRESENT: Chairman Amy L. Ignatius, Presiding
Commissioner Robert R. Scott
Commissioner Michael D. Harrington

Sandy Deno, Clerk

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

Reptg. TransCanada:
Douglas L. Patch, Esq. (Orr & Reno)

Reptg. Granite Ridge Energy:
Howard M. Moffett, Esq. (Orr & Reno)

Reptg. N.H. Sierra Club:
Arthur B. Cunningham, Esq.

Reptg. Conservation Law Foundation:
N. Jonathan Peress, Esq.

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

ORIGINAL

APPEARANCES: (C o n t i n u e d)

Reptg. Office of Energy & Planning:

Eric Steltzer

Joanne Morin, Director

Reptg. Residential Ratepayers:

Rorie E. P. Hollenberg, Esq.

Kenneth E. Traum

Office of Consumer Advocate

Reptg. the PUC Staff:

Alexander F. Speidel, Esq.

George R. McCluskey, Electric Division

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 WILLIAM H. SMAGULA
 ELIZABETH H. TILLOTSON
 DAVID ERRICHETTI

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1 P R O C E E D I N G

2 CHAIRMAN IGNATIUS: We will open the
3 hearing today in Docket DE 10-261, which is Public Service
4 Company of New Hampshire's 2010 Least Cost Integrated
5 Resource Plan. As stated in the Order of Notice, on
6 September 30, 2010, Public Service filed its 2010 Least
7 Cost Integrated Resource Plan pursuant to RSA 378:27, and
8 Commission Orders Number 24,945 and 25,061.

9 The filing raises issues related to
10 PSNH's planning process, whether it is adequate as defined
11 by the requirements set forth in RSA 378:38 and 39, and
12 the Commission Order Number 24,945, and whether it's
13 consistent with RSA Chapter 374-F and RSA 369-B:3-a.

14 So, with that, let's take appearances
15 please.

16 MS. KNOWLTON: Good morning,
17 Commissioners. My name is Sarah Knowlton. I am appearing
18 today for Public Service Company of New Hampshire. And,
19 also appearing with me is my co-counsel, Gerald Eaton.

20 CHAIRMAN IGNATIUS: Good morning.

21 MR. EATON: Good morning.

22 MR. PATCH: Good morning. Doug Patch,
23 from the law firm of Orr & Reno, appearing on behalf of
24 TransCanada.

1 CHAIRMAN IGNATIUS: Good morning.

2 MR. MOFFETT: Good morning,
3 Commissioners. Howard Moffett, from Orr & Reno,
4 representing Granite Ridge Energy. And, I should note
5 that I expect this afternoon my colleague Maureen Smith
6 will be here in my place for part of the afternoon.

7 CHAIRMAN IGNATIUS: Mr. Moffett, has
8 Granite Ridge Energy moved to intervene?

9 MR. MOFFETT: Yes.

10 CHAIRMAN IGNATIUS: All right. I guess
11 I lost track of that. Thank you. Yes.

12 MR. CUNNINGHAM: Art Cunningham, of the
13 New Hampshire Sierra Club. I have with me our expert
14 witness, Dr. Ron Sahu.

15 CHAIRMAN IGNATIUS: Good morning.

16 MR. STELTZER: Good morning. Eric
17 Steltzer, with the Office of Energy & Planning. At points
18 throughout the hearing Joanne Morin will also be here
19 representing the Office of Energy & Planning.

20 CHAIRMAN IGNATIUS: Thank you.

21 MR. PERESS: Good morning. Jonathan
22 Peress, on behalf of the Conservation Law Foundation.
23 And, with me is Douglas Hurley, of Synapse Energy
24 Economics.

1 CHAIRMAN IGNATIUS: Good morning.

2 MS. HOLLENBERG: Good morning,
3 Commissioners. Rorie Hollenberg and Kenneth Traum, here
4 for the Office of Consumer Advocate.

5 MR. SPEIDEL: Good morning. Alexander
6 Speidel, on behalf of Staff. And, I have with me George
7 McCluskey of Staff.

8 CHAIRMAN IGNATIUS: Good morning,
9 everyone, and welcome. Do we have any procedural matters
10 to take up before we begin?

11 MS. HOLLENBERG: Yes.

12 CHAIRMAN IGNATIUS: Looks like we do.

13 MS. HOLLENBERG: Actually, if I might.
14 I have consulted with the counsel and parties, and
15 respectfully request that the Commission break for lunch
16 at noon today. It's on account of a medical -- personal
17 medical family issue.

18 CHAIRMAN IGNATIUS: And, if that's fine
19 with everyone, that certainly makes sense with our
20 schedule. So, thank you for that.

21 MS. HOLLENBERG: Thank you.

22 CHAIRMAN IGNATIUS: Other procedural
23 issues? Ms. Knowlton.

24 MS. KNOWLTON: Thank you. The Company

1 would -- there are two issues involved in this case.

2 There is the IRP filing, and then, when concluded with the
3 IRP filing, then the Continuing Unit Operations Study of
4 Newington Station. The Company would propose putting two
5 panels of witnesses on, beginning with the IRP portion of
6 the case. Our proposal is, is that our witnesses would
7 take the stand on the IRP, there would be
8 cross-examination of those witnesses. When that was
9 concluded, other parties and Staff have filed testimony
10 that relate to the IRP, that those witnesses would appear,
11 be subject to examination. And, that we would then have a
12 second, you know, when the IRP phase is concluded, that
13 the next testimony would be on the CUO. We would bring
14 our CUO witnesses up and they would testify, and we would
15 repeat that process.

16 I have floated that idea by the
17 attorneys in the case. And, I don't believe that I've
18 heard any objection to that. So, that's one issue.

19 The second --

20 CHAIRMAN IGNATIUS: Before we move on,
21 let's -- is there anyone who's troubled by that approach?
22 Mr. Patch.

23 MR. PATCH: I'm not troubled by it. I
24 just want to make it clear that sometimes it's not easy to

1 be black and white about which is which. And, I have some
2 questions of some of the witnesses that might be
3 considered to be sort of laying the foundation for
4 questions about Newington.

5 So, as long as there is an agreement
6 that they won't object because I should have asked them in
7 the first half of the proceeding, I'll do my best to try
8 to abide by that.

9 CHAIRMAN IGNATIUS: I, too, worry about
10 the crossover between the two. And, I think it may be a
11 good approach. I think, as long as it doesn't become
12 multiple rounds of direct and cross-examination on the
13 same issues and never any sense of getting to an end point
14 and excusing witnesses from the stand. But I guess we can
15 all be careful about that. Is anyone else -- any other
16 objection to the approach? Who would be on the IRP panel?

17 MS. KNOWLTON: The IRP panel would be
18 Mr. Large, Mr. Smagula, and Ms. Tillotson.

19 CHAIRMAN IGNATIUS: And, the witnesses
20 that would be testifying on the IRP portion from other
21 parties would be?

22 MR. CUNNINGHAM: Dr. Sahu, for Sierra
23 Club.

24 MR. PERESS: Douglas Hurley, for the

1 Conservation Law Foundation. I do have a question about
2 that first panel, when it's appropriate.

3 CHAIRMAN IGNATIUS: Go ahead.

4 MR. PERESS: Is Mr. Errichetti going to
5 be testifying?

6 MS. KNOWLTON: The Company has -- there
7 are many -- we brought our witnesses that have submitted
8 prefiled testimony. There are other Company employees who
9 have answered data responses. We have Mr. Errichetti here
10 in the room, as we have Mr. Gelineau. Our view is that we
11 would like to start and put on the panel those employees
12 who have prefiled testimony. If it becomes necessary to
13 put others on the stand, you know, we will do that. One
14 thing that I would ask, though, is that, if you are
15 anticipating asking questions of anyone other than Mr.
16 Errichetti or Mr. Gelineau, to let us know, because there
17 are many folks at the Company that participated in putting
18 this together. We didn't bring everyone with us. But we
19 do have Mr. Errichetti here.

20 MR. PERESS: So, if I may address that.
21 We do plan on conducting cross-examination with respect to
22 data responses that are attributed to Mr. Errichetti. As
23 well as cross-examination with respect to testimony of the
24 individuals that Ms. Knowlton mentioned would be in the

1 first panel.

2 CHAIRMAN IGNATIUS: All right. Well,
3 perhaps we'll call him separately, after the panel?

4 MS. KNOWLTON: We're happy for Mr.
5 Errichetti to, I mean, he can take the stand with the
6 Company's other witnesses, or, you know, we can wait until
7 it becomes necessary. I'm happy to proceed however the
8 Commission would prefer.

9 CHAIRMAN IGNATIUS: Why don't we add him
10 to the panel, unless anyone has a problem with that. It
11 might be a little less of the coming and going and
12 starting rounds over again. The panel -- the other
13 witnesses on the IRP portion then would be Dr. Sahu, is it
14 "Sahu"? Am I pronouncing that correctly?

15 DR. SAHU: Yes, that's fine.

16 CHAIRMAN IGNATIUS: Thank you.
17 Mr. Hurley.

18 MS. HOLLENBERG: Mr. Traum.

19 CHAIRMAN IGNATIUS: Mr. Traum.

20 MR. SPEIDEL: And Mr. McCluskey.

21 CHAIRMAN IGNATIUS: And Mr. McCluskey.
22 All right. And, is Mr. Arnold?

23 MR. SPEIDEL: He is not involved in the
24 IRP general portion of Staff's case.

1 CHAIRMAN IGNATIUS: Okay. All right.
2 Yes.

3 MR. PATCH: One quick issue, just to be
4 up front. I have a question or two I would like to ask of
5 the Sierra Club witness, Dr. Sahu, about Newington, and
6 there may be an objection to it. But, just so you know.
7 He's only going to be here on the first panel. I'll ask
8 my question, if anyone wants to object, they can do that.

9 CHAIRMAN IGNATIUS: Well, it may be that
10 the same names are all on the second issue as well. So,
11 who would be the witnesses from PSNH for the Continuing
12 Unit Operations Study?

13 MS. KNOWLTON: Mr. Large, Mr. Smagula,
14 Ms. Tillotson, Richard Levitan, and Richard Carlson.

15 CHAIRMAN IGNATIUS: So, it's the same
16 first three, and then the addition of Mr. Levitan and Mr.
17 Carlson.

18 MS. KNOWLTON: Right.

19 CHAIRMAN IGNATIUS: And, for other
20 parties, would Mr. Hachey be testifying --

21 MR. PATCH: Yes.

22 CHAIRMAN IGNATIUS: -- on that panel --
23 I mean, that issue. Mr. Cunningham.

24 MR. CUNNINGHAM: Sierra Club does not

1 anticipate calling Dr. Sahu in the second panel.

2 CHAIRMAN IGNATIUS: Mr. Peress?

3 MR. PERESS: Likewise, we do not
4 anticipate calling Mr. Hurley in the second issue.

5 MS. HOLLENBERG: The OCA would call Mr.
6 Traum for the second issue.

7 MR. SPEIDEL: Staff would call
8 Mr. McCluskey and also Mr. Arnold of Jacobs Consultancy to
9 the panel.

10 CHAIRMAN IGNATIUS: All right. And, Mr.
11 Patch, you noted that you might have a couple of questions
12 regarding the Newington plant that you'd want to bring in
13 when Dr. Sahu is on?

14 MR. PATCH: That's right.

15 CHAIRMAN IGNATIUS: All right. Well,
16 we'll take that up as it comes. Hopefully, that's
17 agreeable, and we can be a little bit flexible here. One
18 moment please.

19 (Chairman and Commissioners conferring.)

20 CHAIRMAN IGNATIUS: All right. We're
21 willing to give it a try. And, if it helps to keep things
22 focused, I think that's a good plan.

23 MS. KNOWLTON: We appreciate that.

24 Thank you.

1 CHAIRMAN IGNATIUS: Sure.

2 MS. KNOWLTON: Two other briefly
3 procedural issues. With regard to the presentation of
4 evidence, the Company's initial filing in the case is its
5 Least Cost Integrated Resource Plan. Staff and some of
6 the parties have filed testimony in the case, and then, in
7 turn, the Company filed rebuttal testimony. It seems that
8 it would be more efficient, when our IRP witnesses take
9 the stand, that we can take them through, you know,
10 briefly identifying the IRP document and the rebuttal
11 testimony, you know, for efficiency purposes. But the
12 Company does not want to waive the right to conduct, you
13 know, true rebuttal, to the extent anything new is said by
14 any of the witnesses after the Company panel has come off
15 the stand. So, we would like to reserve the right to
16 bring them back up, if it's needed, to address new issues.

17 CHAIRMAN IGNATIUS: Well, we've -- all
18 of the parties and the Commissioners have all read the
19 direct and the rebuttal testimony.

20 MS. KNOWLTON: Uh-huh.

21 CHAIRMAN IGNATIUS: So, I agree that
22 having witnesses at the beginning address both, and not
23 wait to begin again with rebuttal, would be wise. I'm not
24 sure what you mean by "further rebuttal"? I mean, you

1 have an opportunity for redirect, if it's your witness.

2 MS. KNOWLTON: We do. But we would be
3 redirecting, doing redirect with our witnesses before the
4 other witnesses have taken the stand. If we were going to
5 proceed in the strictest sense, you know, fashion, what we
6 would do is we would put our plan up, which is our initial
7 filing, our witness would be cross-examined, we would do
8 redirect. The other witnesses would take the stand, we'd
9 go through that process, and then we will put our
10 witnesses back on the stand for the rebuttal. And, at the
11 end of the rebuttal, we have the chance to do redirect.
12 But it doesn't seem as efficient to me, you know, we'll be
13 happy to proceed in that manner, but it doesn't seem as
14 efficient.

15 So, I would like to have the opportunity
16 to do limited, and, hopefully, it wouldn't be necessary,
17 but, if it is, if something new is said by any of the
18 Staff or other witnesses, you know, that we would have an
19 opportunity to bring our witnesses back up and address
20 those new points, as needed.

21 CHAIRMAN IGNATIUS: So, you're really
22 asking to recall those witnesses?

23 MS. KNOWLTON: Exactly.

24 CHAIRMAN IGNATIUS: I think my hope is

1 we don't have to do that.

2 MS. KNOWLTON: Uh-huh.

3 CHAIRMAN IGNATIUS: And, would urge
4 everyone to try to anticipate whatever issues they have,
5 this will be true for probably other parties as well, to
6 anticipate where they need to go, what they want to bring
7 out, and not -- certainly don't reserve anything to hold
8 for later. If it's necessary, everyone will have an
9 opportunity to make a pitch for why it's necessary at the
10 end. But I don't want to assume that anyone is coming
11 back on the stand, we'll just have to see how it goes.

12 MS. KNOWLTON: Okay. We'll take it and
13 see. The last issue is there are a few motions for
14 protective treatment that the Company has filed that are
15 still pending. To the extent that there are questions
16 with regard to those data responses that contain
17 confidential information for which we've sought protective
18 agreement, but not received an order yet, you know, we'd
19 like to proceed in a manner that they are confidential,
20 pending a ruling of the Commission.

21 CHAIRMAN IGNATIUS: Are there objections
22 to the requests for confidentiality?

23 (No verbal response)

24 CHAIRMAN IGNATIUS: I don't see any

1 objections. Why don't we then proceed with the assumption
2 that they certainly are protected during the course of the
3 proceeding today. And, we will issue an order addressing
4 that. But, to the extent we can discuss things without
5 resort to confidential terms, make reference to them in a
6 not completely specific way and not have to get into
7 closed and open sessions of transcripts and hearing room
8 attendance, that would be helpful.

9 MS. KNOWLTON: And, Mr. Eaton will be
10 handling the Least Cost Integrated Resource Plan part of
11 the hearing, and I will be doing the CUO. So, at this
12 point, I will turn it over to Mr. Eaton.

13 CHAIRMAN IGNATIUS: All right. And,
14 before we begin, and you can bring your witnesses forward,
15 if you want to get them settled. But let me ask, are
16 there any other procedural issues to take up before we
17 begin taking evidence?

18 (No verbal response)

19 CHAIRMAN IGNATIUS: All right. Let's
20 begin. Thank you.

21 MR. EATON: For the record, madam Chair,
22 my name is Gerald Eaton, Senior Counsel of Public Service
23 Company of New Hampshire. I'd like to call to the stand
24 Mr. Terrance Large, Mr. William Smagula, Ms. Elizabeth

[WITNESS PANEL: Large~Smagula~Tillotson~Errichetti]

Tillotson, and Mr. David Errichetti.

(Whereupon **Terrance Large**,

William Smagula, **Elizabeth Tillotson**,

and **David Errichetti** were duly sworn by

the Court Reporter.)

TERRANCE J. LARGE, SWORN

WILLIAM H. SMAGULA, SWORN

ELIZABETH H. TILLOTSON, SWORN

DAVID ERRICHETTI, SWORN

DIRECT EXAMINATION

BY MR. EATON:

Q. Mr. Large, would us please state your name for the record.

A. (Large) My name is Terrance J. Large, L-a-r-g-e.

Q. For whom are you employed?

A. (Large) I'm employed by Public Service Company of New Hampshire.

Q. What is your position with Public Service Company of New Hampshire?

A. (Large) I am the Director of Business Planning and Customer Support Services.

Q. What are your duties and responsibilities in that position?

A. (Large) I have overall responsibility for business

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[WITNESS PANEL: Large~Smagula~Tillotson~Errichetti]

1 planning at Public Service Company of New Hampshire, as
2 well as budget activities, goal reporting, conservation
3 and load management programs report, and my chain of
4 responsibilities, economic and community development,
5 our management of purchase power contracts with small
6 independent power producers, and ISO reporting.

7 Q. Were you involved with the preparation of the
8 Integrated Least Cost Plan?

9 A. (Large) I have overall responsibility for the filing of
10 the Company's plan, yes.

11 Q. And, have you ever testified before the Commission
12 before?

13 A. (Large) Yes, I have.

14 Q. Mr. Smagula, could you please state your name for the
15 record.

16 A. (Smagula) My name is William Smagula.

17 Q. For whom are you employed?

18 A. (Smagula) I'm employed by Public Service Company of New
19 Hampshire.

20 Q. And, what is your position with Public Service Company?

21 A. (Smagula) I am the Director of Generation for PSNH.

22 Q. And, what are your duties and responsibilities in that
23 position?

24 A. (Smagula) I have overall responsibility for the

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[WITNESS PANEL: Large~Smagula~Tillotson~Errichetti]

1 operations, maintenance, and administrative functions
2 for all of our fossil and hydro generating facilities.

3 Q. What was your involvement with the -- with this
4 proceeding, the Least Cost Plan and the Newington
5 Continuing Unit Operation Study?

6 A. (Smagula) My participation involved preparing text and
7 information to support the filings, the testimony that
8 was provided, as well as support information for
9 various studies and responses to questions.

10 Q. Have you ever testified before the Commission?

11 A. (Smagula) Yes, I have.

12 Q. Ms. Tillotson, I'd ask you to share that microphone and
13 bring it close to you and Mr. Errichetti, so that we
14 can all hear. Would you please state your name for the
15 record.

16 A. (Tillotson) My name is Elizabeth Tillotson.

17 Q. For whom are you employed?

18 A. (Tillotson) PSNH.

19 Q. And, what is your position?

20 A. (Tillotson) I'm the Technical Business Manager in the
21 Generation Department.

22 Q. And, in that position, what are your duties and
23 responsibilities?

24 A. (Tillotson) I work with the Station and the staff on

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[WITNESS PANEL: Large~Smagula~Tillotson~Errichetti]

1 legislative, regulatory, and environmental issues for
2 the facilities, for the generating facilities.

3 Q. And, did you participate in the preparation of the
4 Least Cost Plan and the discovery in this proceeding?

5 A. (Tillotson) Yes, I did.

6 Q. Have you ever testified before the Commission?

7 A. (Tillotson) I have.

8 Q. Mr. Errichetti, could you please state your name for
9 the record.

10 A. (Errichetti) My name is David Errichetti.

11 Q. For whom are you employed?

12 A. (Errichetti) Northeast Utilities Service Company.

13 Q. And, what is your position?

14 A. (Errichetti) I'm a Manager in the Wholesale Power
15 Contracts Group.

16 Q. And, what are your duties in that position?

17 A. (Errichetti) I'm administratively responsible for the
18 bidding and scheduling of PSNH's generation to meet
19 energy service. I participate in the planning of
20 serving ES. I'm responsible for administering certain
21 wholesale power contract issues for the other NU
22 affiliates. And, I'm actively involved in the
23 wholesale market arena.

24 Q. Were you involved in the preparation of the Least Cost

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[WITNESS PANEL: Large~Smagula~Tillotson~Errichetti]

1 Plan and the discovery in this proceeding?

2 A. (Errichetti) Yes.

3 Q. Have you ever testified before the Commission?

4 A. (Errichetti) Yes.

5 Q. Mr. Large, do you have in front of you PSNH's
6 September 30th, 2010 filing in this proceeding?

7 A. (Large) I have a copy of that, yes.

8 Q. And, what is that document?

9 A. (Large) It's PSNH's compliance with the law requiring
10 the filing of an Integrated Least Cost Resource Plan on
11 a biennial basis. And, it includes as well the
12 Commission-required Newington Continuing Unit
13 Operations Study.

14 Q. And, that's a multipage document, over 200 pages?

15 A. (Large) Yes.

16 MR. EATON: I wonder if I could have
17 that marked for identification as "PSNH Exhibit 1"?

18 CHAIRMAN IGNATIUS: So marked for
19 identification. And, this is the -- are you asking for
20 the full, bound blue volume?

21 MR. EATON: Yes.

22 CHAIRMAN IGNATIUS: All right.

23 MR. EATON: I think Attorney Speidel
24 mentioned that, for clarity, that we would identify our

[WITNESS PANEL: Large~Smagula~Tillotson~Errichetti]

1 exhibits as "PSNH 1", and then "Staff 1", and different
2 parties would identify their exhibits that way, so that
3 they're kind of in sequence, and by party. If that's
4 acceptable to all the other parties and to the Commission?

5 CHAIRMAN IGNATIUS: We don't usually do
6 it that way, though we have in some complex cases. If
7 that's the way people have lined up their documents,
8 that's fine.

9 And, Mr. Eaton, just one question, and
10 you may have said this and I missed it. The bound volume
11 contains both the Plan and the Continuing Unit Operation
12 Study. Do you want that all to be marked as "Exhibit 1"
13 or do you want to pull that CUO out?

14 MR. EATON: No. I'd like it all to be
15 marked as "Exhibit 1". We can refer back to it in the
16 second portion of the proceeding.

17 CHAIRMAN IGNATIUS: That's fine.

18 (The document, as described, was
19 herewith marked as **Exhibit PSNH 1** for
20 identification.)

21 BY MR. EATON:

22 Q. Mr. Large, do you have with you a filing of April 26,
23 2011, that is under your cover letter in this docket?

24 A. (Large) I'd benefit if you were to show that to me, Mr.

[WITNESS PANEL: Large~Smagula~Tillotson~Errichetti]

1 Eaton. I'm sure I do in the multiple binders of
2 information. Yes, I do have this document.

3 Q. And, could you identify it please.

4 A. (Large) Yes. On April 26, 2011, the Company submitted
5 revised information associated with the Integrated
6 Resource Plan, and that corrected some editing errors,
7 typographical errors, some factual errors. And,
8 additionally, a revision to the Newington CUO Study was
9 filed at that time. And, that's what this transmittal
10 provides to the Commission and the parties.

11 Q. And, for this portion of the proceeding, concerning the
12 Least Cost Plan, the subject matter would be the
13 demand-side management corrections to the Least Cost
14 Plan?

15 A. (Large) Specific in this document, it's the first
16 bullet in the paragraph in the body of the transmittal.

17 MR. PATCH: Chairman Ignatius, I have
18 one question. Does that include the cover letter of
19 April 26?

20 MR. EATON: Yes.

21 MR. PATCH: Okay. Thank you.

22 MR. EATON: Yes. There's some
23 explanation from Mr. Large of what's in the document.

24 Could we have that marked for

[WITNESS PANEL: Large~Smagula~Tillotson~Errichetti]

1 identification as "PSNH Exhibit 2"?

2 CHAIRMAN IGNATIUS: So marked for
3 identification.

4 (The document, as described, was
5 herewith marked as **Exhibit PSNH 2** for
6 identification.)

7 BY MR. EATON:

8 Q. Mr. Large, did you prepare rebuttal testimony in this
9 proceeding?

10 A. (Large) Yes, I have.

11 Q. And, do you have that in front of you?

12 A. (Large) Yes, I do.

13 Q. When was that filed with the Commission?

14 A. (Large) I have it dated "October 26, 2011".

15 Q. And, is that testimony true and accurate to the best of
16 your knowledge and belief?

17 A. (Large) Yes, it is.

18 Q. And, if I asked you those questions today, you would
19 respond in the same way?

20 A. (Large) I would.

21 MR. EATON: Could we have that marked as
22 "PSNH Exhibit 3".

23 CHAIRMAN IGNATIUS: So marked.

24 (The document, as described, was

[WITNESS PANEL: Large~Smagula~Tillotson~Errichetti]

1 herewith marked as **Exhibit PSNH 3** for
2 identification.)

3 BY MR. EATON:

4 Q. Mr. Smagula and Ms. Tillotson, did you jointly prepare
5 rebuttal testimony in this proceeding?

6 A. (Tillotson) We did.

7 A. (Smagula) Yes.

8 Q. Was that filed on the same date as Mr. Large's
9 testimony?

10 A. (Tillotson) Yes.

11 A. (Smagula) Yes.

12 Q. And, is it prepared by you or under your supervision?

13 A. (Tillotson) Yes.

14 Q. And, is it true and accurate to the best of your
15 knowledge and belief?

16 A. (Tillotson) Yes.

17 Q. And, if I asked you those questions today, you would
18 respond in the same way?

19 A. (Tillotson) Yes.

20 A. (Smagula) Yes.

21 MR. EATON: Could we have that marked as
22 "PSNH Exhibit 4"?

23 CHAIRMAN IGNATIUS: So marked.

24 (The document, as described, was

[WITNESS PANEL: Large~Smagula~Tillotson~Errichetti]

1 herewith marked as **Exhibit PSNH 4** for
2 identification.)

3 MR. EATON: We will dispense with the
4 summary of the testimony and the exhibits and make the
5 witnesses available for cross-examination.

6 CHAIRMAN IGNATIUS: Well, I want to make
7 sure that makes sense. Are you -- there's nothing in
8 response to other testimony that hasn't been already
9 covered in the rebuttal, I take it? So that you have no
10 other responsive testimony that you know you want to
11 develop?

12 MR. EATON: Not at this time. I think
13 what Attorney Knowlton was talking about is that something
14 that wasn't included in the prefiled testimony of the
15 other intervenors it comes out today, that would be the
16 reason we would request to recall these witnesses, on the
17 IRP portion of the proceeding.

18 CHAIRMAN IGNATIUS: All right. Thank
19 you. Mr. Patch, cross-examination questions?

20 MR. SPEIDEL: Chairman Ignatius, if I
21 may? We have Mr. Smeltzer [sic] from the Office of Energy
22 & Planning, who has been a silent intervenor thus far, but
23 would like to ask a few questions of the Company's
24 witnesses. I understand that they're on a relatively

[WITNESS PANEL: Large~Smagula~Tillotson~Errichetti]

1 tight schedule. So, if it wouldn't be a problem from the
2 remaining intervenors, I'd like to invite him to ask a few
3 questions.

4 CHAIRMAN IGNATIUS: If no objection from
5 anyone, that's fine with us. Mr. Steltzer.

6 MR. STELTZER: Great. Thank you for the
7 accommodations there.

8 **CROSS-EXAMINATION**

9 BY MR. STELTZER:

10 Q. Mr. Large, on PSNH Exhibit 1, Page 42, let me know when
11 you're there.

12 A. (Large) I have that.

13 Q. At the top there, you mention that, "Based on the 2009
14 results, PSNH saved energy at an average cost of 2.4
15 cents per lifetime kilowatt-hour, as compared to the
16 current average retail price of a kilowatt-hour of
17 14.65 cents." Do you have any updates, as far as the
18 ratios to that comparison today, and would they be
19 largely in line?

20 A. (Large) I don't have any specific information,
21 Mr. Steltzer, I'm sorry. But I believe that our energy
22 savings rate is fairly consistent with these numbers.
23 And, I believe that the retail price of energy has
24 actually declined a bit over the last several weeks and

1 months and years.

2 Q. And, would it be fair to say then that it costs less to
3 procure energy through energy efficiency than
4 purchasing it out on the wholesale market?

5 A. (Large) It still remains true that our rate at which we
6 are spending energy efficiency dollars that produces
7 lifetime kilowatt-hour savings is below the market
8 price for energy. That is a true statement.

9 Q. Further in PSNH Exhibit 1, on Page 56, --

10 A. (Large) I have Page 56.

11 Q. You discuss in Exhibit IV-9 the "Market Potential and
12 Base Case Savings", where it shows that, this is based
13 off of the GDS report, showing the potential for energy
14 savings that are out there and that are achievable, and
15 that's growing over time through 2015, while the base
16 case is declining over that time. And, it's my
17 understanding that that is largely based off of new
18 lighting standards, is that correct?

19 A. (Large) It's true that there is a decline that we
20 forecast in the base case that is almost completely
21 attributable to revisions in the lighting standard.
22 But the first part to your question, about the buildup
23 of this case from the GDS study, I want to be sure I
24 respond to what you are asking there.

1 Q. Please do.

2 A. (Large) Well, could you please restate it for me.

3 Q. I guess where I'm going with the line of questioning
4 here is just, would it be fair to say that there are
5 significantly additional energy efficiency savings that
6 could be achieved out there based off of the GDS report
7 and what's been supplied here in the filing?

8 A. (Large) What the Company has done, in our preparation
9 of this filing, is starting with the GDS study, we've
10 examined what we view as appropriate modifications,
11 revisions, edits to the work that they did, and we
12 produced a Market Potential Study, which, in many
13 cases, is kilowatt-hours saved below what GDS had
14 suggested. Our base case is a number that is
15 consistent with historic performance or an expected
16 spending based on the System Benefits Charge spending,
17 and that number is lower than the Market Potential
18 Study that we have presented here.

19 Q. Are there --

20 A. (Large) So, there is -- there is the potential for
21 additional kilowatt-hour savings above the base case
22 approaching the market potential case that we've
23 demonstrated in this filing, yes.

24 Q. What is limiting you from reaching those additional

1 energy efficiency savings?

2 A. (Large) It's all about funding, the necessary dollars
3 to implement new programs or expand programs.

4 Q. Looking at PSNH Exhibit 3, your rebuttal testimony
5 filed on the 26th of October 2011, specifically
6 referring to Page 14, let me know when you're there.

7 A. (Large) I have Page 14.

8 Q. At the bottom, from Line 16 through 22, you discuss
9 that a clarification to a statement that was made in
10 Mr. Traum's testimony regarding how PSNH has analyzed
11 the opportunity for energy efficiency in its capital
12 investment. I was wondering if you could just expand
13 on that section a little bit for me?

14 A. (Large) Certainly. The Company has in place a
15 procedure whereby our System Engineering Team and our
16 Conservation and Load Management Team will review the
17 opportunities that exist to utilize conservation/load
18 management measures, rather than traditional poles and
19 wires or transformer installations, to meet new
20 forecasts of customer load. We have that procedure in
21 place. However, since 2008, with the substantial
22 economic downturn, we have not seen substantial
23 increases or even notable increases in customer -- in
24 that customer load that are requiring investments that

1 C&LM might be able to displace. So, we have a process
2 in place. We're prepared to utilize it. However, the
3 circumstances under which it would be beneficial to
4 implement do not exist at this time.

5 Q. And, if that were to arise, you highlight in your
6 testimony that the Commission [Company?] would seek
7 approval for use of System Benefits Charge funds, and
8 then you state the RSA regarding that matter. Are
9 there other mechanisms that you could pursue to achieve
10 those energy efficiency savings, if it were to be
11 deemed cost-effective for the buildup of the
12 distribution system?

13 A. (Large) Well, we view the implementation of energy
14 efficiency programs to be really within the context of
15 how we manage the CORE Energy Efficiency Programs. So,
16 we're in a unique circumstance where we're examining
17 PSNH capabilities and PSNH practices. But we never
18 want to lose sight of the fact that programs throughout
19 the state are managed at the CORE level. So, that's
20 where the fundamental review of energy efficiency
21 programs takes place, in my perspective. So, this is a
22 bit of a one-off.

23 I don't have a ready example of what
24 other funding sources we would utilize from within

[WITNESS PANEL: Large~Smagula~Tillotson~Errichetti]

1 Company resources. It would be possible that we could
2 seek funding from the Renewable Energy Fund or the
3 other funds managed by the Commission based on the CO2
4 Program, the RGGI Program, or that we could seek
5 special funding for a specific project. But we don't
6 have an investment practice that would replace the
7 capital investment in traditional fashion with a
8 capital investment, if you will, in an energy
9 efficiency program.

10 Q. Would it be possible to build those energy efficiency
11 measures into the rate structures?

12 A. (Large) I believe it's possible, but it needs -- it
13 would need consideration and review and approval at the
14 Commission.

15 MR. STELTZER: Thank you.

16 CHAIRMAN IGNATIUS: Nothing further?

17 MR. STELTZER: No. That finishes it.

18 Thank you.

19 CHAIRMAN IGNATIUS: Thank you. Do we
20 then go to Mr. Patch?

21 MR. PATCH: Okay.

22 CHAIRMAN IGNATIUS: All right.

23 MR. PATCH: Good morning.

24 BY MR. PATCH:

{DE 10-261} [Morning Session Only] {04-04-12/Day 1}

[WITNESS PANEL: Large~Smagula~Tillotson~Errichetti]

1 Q. Mr. Large, I have a couple of questions for you. In
2 your prefiled testimony, you say that you are "directly
3 responsible for the development of the Least Cost
4 Integrated Resource Plan", is that correct?

5 A. (Large) That was -- that is my assignment in this
6 mission, yes.

7 Q. And, would you agree that the primary objective of such
8 a plan for PSNH is to develop and implement an
9 Integrated Resource Plan that satisfies customer energy
10 service needs at the lowest overall cost consistent
11 with maintaining supply reliability? And, I'm not
12 trying to trick you. I'll tell you where I -- what I'm
13 quoting from. I'm looking at Page 12 of Order Number
14 24,945, which is the Commission's February 27th, 2009
15 order accepting the 2007 Plan. And, I can show you
16 that language, if it would be helpful?

17 A. (Large) Thank you. That would be.

18 (Atty. Patch handing document to Witness
19 Large.)

20 **BY THE WITNESS:**

21 A. I would agree that it's a primary objective. But there
22 are certainly many other objectives that need to be
23 satisfied in a least cost plan filing.

24 BY MR. PATCH:

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[WITNESS PANEL: Large~Smagula~Tillotson~Errichetti]

1 Q. Okay. Thank you. Mr. Traum, in his testimony, and I'm
2 looking at -- that has not been marked as an exhibit
3 yet, but I assume you have a copy there, do you?

4 A. (Large) I do.

5 Q. Pages 14 and 15.

6 A. (Large) I have Mr. Traum's testimony, at Page 14.

7 Q. And, he basically finds fault with PSNH for its failure
8 to plan for migration of customers. Is that fair to
9 say?

10 A. (Large) I read that he says that we "do not have a base
11 case migration scenario", at Lines 15 and 16.

12 Q. And, then, on Lines 18 and 19, he says "this is another
13 example of how PSNH's planning process is
14 insufficient." Is that correct?

15 A. (Large) That's what the words in Mr. Traum's testimony
16 say on those lines, yes.

17 Q. And, then, in the next sentence he says, "For example,
18 PSNH should be analyzing the possibility of residential
19 migration in the next few years and its ramifications
20 on the requirements for default service." Is that
21 correct?

22 A. (Large) The document in front of me, that's Mr. Traum's
23 testimony, says those words, yes.

24 Q. Can you explain why you did not include such an

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1 analysis in your plan?

2 A. (Large) I don't believe that it's accurate to say that
3 we have not. "The Company has not produced a base case
4 migration scenario", that is a true statement. The
5 Company's filing includes a range of potential
6 migration scenarios, that range from 0 percent to
7 40 percent. We have factored in the possibility of
8 residential customer migration. And, those numbers are
9 factored into that overall computation of the
10 40 percent migration scenario.

11 Q. Was migration an issue in 2010?

12 A. (Large) Yes.

13 Q. When did it first become an issue for PSNH?

14 A. (Large) It's been an issue in a variety of different
15 ways since, I would say, approximately 2008. Maybe Mr.
16 Errichetti would have a different view.

17 A. (Errichetti) Late 2008.

18 Q. Pardon?

19 A. (Errichetti) Late 2008.

20 Q. Okay. I'm going to show you a copy of a few pages from
21 the Northeast Utilities Form 10-K for the fiscal year
22 ended December 31st, 2010.

23 MR. PATCH: And, I'd like to ask that
24 this be marked as an exhibit.

1 (Atty. Patch distributing documents.)

2 MR. PATCH: I guess this would be
3 "TransCanada Number 1".

4 CHAIRMAN IGNATIUS: Before we mark it,
5 can you give any explanation of the source of the document
6 and what it -- it's, obviously, an excerpt from something?

7 MR. PATCH: The source of the document,
8 I mean, I searched online and I found the 10-K for
9 Northeast Utilities for the fiscal year ended
10 December 31st, 2010.

11 CHAIRMAN IGNATIUS: And, this is four --
12 three separate pages photocopied, pulled out of the full
13 over 300 page document?

14 MR. PATCH: That's right.

15 CHAIRMAN IGNATIUS: We'll mark this for
16 identification as "TransCanada 1".

17 (The document, as described, was
18 herewith marked as **Exhibit TransCanada 1**
19 for identification.)

20 BY MR. PATCH:

21 Q. And, either Mr. Large or Mr. Errichetti, I'd ask you to
22 take a look at what's been marked as "Page 5". And,
23 then, at the very bottom, in the very bottom paragraph,
24 I'm going to just read a couple of sentences and I'll

[WITNESS PANEL: Large~Smagula~Tillotson~Errichetti]

1 ask you if they are correct. "Prior to 2009, PSNH
2 experienced only a minimal amount of customer
3 migration. However, customer migration levels began to
4 increase significantly in 2009 as energy costs
5 decreased from their historic high levels and
6 competitive energy suppliers with more pricing
7 flexibility were able to offer electricity supply at
8 lower prices than PSNH." Did I read that correctly?

9 A. (Large) Yes.

10 Q. And, I don't think that's inconsistent with what you
11 just said. I think you had testified that you believed
12 it began around 2008, but --

13 A. (Large) Late 2008, yes.

14 Q. I think it's kind of curious that Northeast Utilities
15 put in the reference to "competitive energy suppliers
16 with more pricing flexibility were able to offer
17 electricity supply at lower prices than at PSNH", and
18 I'm just curious as to what your thoughts are about
19 that? Does that have anything to do with the ownership
20 of generation, do you think?

21 A. (Large) The prices that PSNH charges for energy service
22 referenced in here are fixed, based upon proceedings
23 that are heard before the Commission, and are set for,
24 typically, an annual period, with an opportunity for a

[WITNESS PANEL: Large~Smagula~Tillotson~Errichetti]

1 mid-year adjustment. Those prices currently exist on a
2 common basis for all classes, all rate classes of
3 customers. So, I would say that those numbers are
4 relatively fixed and firm.

5 It is our belief that competitive
6 suppliers, who do not operate under the same mechanism
7 as PSNH does in providing its energy service, have the
8 ability to price however they choose to. And,
9 therefore, that's greater flexibility than we
10 experience.

11 Q. Now, I think, Mr. Large, you had said that, in response
12 to my question about "why PSNH didn't plan for
13 migration?", you had said "there actually are some
14 things in the plan itself that relate to migration
15 scenarios." Could you direct the Commission and the
16 parties here today to what portion of the plan you
17 think evidences the planning that PSNH did to address
18 migration?

19 A. (Large) We can begin at the Executive Summary, Pages 9
20 and 10. And, I'll ask my associate, Mr. Errichetti, to
21 assist me, if he's quicker with the pages than I am.

22 A. (Errichetti) Thirty-one.

23 A. (Large) Page 31 is a section entitled "Customer
24 Migration and Forecast Sensitivity".

[WITNESS PANEL: Large~Smagula~Tillotson~Errichetti]

1 A. (Errichetti) And, it's also around Page 93, 93 to 95.

2 MR. EATON: Excuse me for interrupting.

3 Mr. Errichetti, could you please speak up.

4 WITNESS ERRICHETTI: Oh, I'm sorry.

5 With respect to where the range of migration is explored,

6 Mr. Large mentioned "Pages 9 and 10". But it's again

7 looked at on Page 31, and -- I lost my paging here -- 93

8 through 95. So, it's covered in the same basis, just a

9 little more detail subsequent to the Executive.

10 BY MR. PATCH:

11 Q. Okay. And, could you maybe summarize for the
12 Commission then what's the plan? If migration goes up
13 to 40 percent or 50 percent, or whatever it might be,
14 what is the plan? What is PSNH planning to do about
15 it?

16 A. (Errichetti) All other things being equal, we have less
17 ES to purchase from sources other than our own
18 resources. Or, I should say that better. All other
19 things being equal, migration reduces the need to buy
20 from the market.

21 Q. And, does the Plan include lower capacity factors for
22 any of your existing generation? If, in fact, the
23 price of your generation so far exceeds market prices
24 that it becomes uneconomic for you to continue to

1 generate? Is that part of the Plan?

2 A. (Errichetti) A part -- the economic dispatch of our
3 resources and the implications on meeting ES are a part
4 of the Plan and are discussed in the Plan, yes.
5 Migration is independent of that. All other things
6 being equal.

7 Q. So, migration has nothing to do with whether -- how
8 often you operate your generating facilities, is that
9 what you're saying?

10 A. (Errichetti) Generally speaking, our units are
11 dispatched based on their variable costs. So, what --

12 Q. In relation to market prices?

13 A. (Errichetti) The load served is -- is a consideration,
14 but it's of significantly less consideration than the
15 economics of the unit and the operating requirements of
16 the units.

17 Q. So, I don't think you answered my question, but maybe
18 I'll try it a little bit different. I guess I'm trying
19 to understand what the plan is. If the price of PSNH's
20 generating units is at some point significantly higher
21 than the market price, and I don't know what the
22 tipping point is, but then does PSNH plan to either cut
23 back on or substantially reduce the amount of power
24 that it uses to serve default service customers from

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1 its own generation versus from the market? Is that
2 part of the Plan or not?

3 A. (Errichetti) The operation of PSNH's resources are
4 driven by the individual unit's variable costs. And,
5 it's not directly linked to the amount of ES load being
6 served. What is relevant is how much of the ES load is
7 being served by PSNH's generation and how much has to
8 be bought from other sources.

9 Q. How do you decide how much you buy from other sources
10 and how much from generation?

11 A. (Errichetti) We look at that daily, weekly, monthly,
12 multimonth, annually, to get a feel. Depending on
13 market conditions, we may buy ahead or we may wait.

14 Q. So, it sounds like the answer to my question is "yes",
15 it's driven by the economics, and that you have a plan
16 that, at some point in the future, if it becomes
17 uneconomic to utilize a certain portion of PSNH's
18 generation, that you will cut back on that generation
19 and buy more from the market? Is that correct?

20 A. (Large) Just as a point of clarification, when you're
21 saying "the economics", you're speaking about the
22 variable costs that Mr. Errichetti referred to. Is
23 that a true statement?

24 Q. I think that's part of it. I think it's maybe a bigger

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1 picture than that.

2 A. (Errichetti) No. It's as narrow as that.

3 Q. But isn't it the variable costs as compared to what it
4 costs to buy the power from the market or am I
5 incorrect?

6 A. (Errichetti) It's strictly variable.

7 Q. And, that -- and, does the variable costs take into
8 account what the market cost of power is?

9 A. (Errichetti) It takes into account the cost of energy
10 in the market, not power.

11 Q. Okay. So, I think the answer to my question is "yes"
12 then?

13 A. (Errichetti) Well, you started out talking about the
14 "ES rate", and now we're talking about "variable
15 costs", which are just a piece of the ES rate. So, I'm
16 trying to be responsive. With respect to the dispatch
17 of our units, we're looking at the variable costs of
18 the unit versus energy prices, because that's what is
19 at issue.

20 Q. Okay. Is there anything else you'd like to say then,
21 in terms of what PSNH's plan is for addressing
22 increased migration in the future? Or, do you think
23 you've covered it all?

24 A. (Errichetti) Migration drives the overall amount of ES

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1 load, up or down. And that, in and of itself, all
2 other things being equal, changes the amount of energy
3 we need to buy outside of the economic dispatch of our
4 own units. Then, separately, you have the
5 consideration of, on a day-to-day, month-to-month
6 basis, should we run our units to serve the load or
7 should we buy from other energy sources? They're
8 intertwined, but they're not identical.

9 Q. Do you know what the capacity factors are for, say,
10 Merrimack Station so far this year?

11 A. (Errichetti) I do not.

12 Q. Do you know what they are for Newington or for the
13 other generating facilities?

14 A. (Errichetti) I did not prepare for that question. I do
15 not know the answer.

16 Q. Okay. Mr. Smagula?

17 A. (Smagula) No. I don't have that data with me.

18 MR. PATCH: That's all the questions.

19 Thank you. At least in this phase of the proceeding, just
20 to be clear.

21 CHAIRMAN IGNATIUS: All right. Thank
22 you. Mr. Moffett?

23 MR. MOFFETT: No questions, your Honor.

24 CHAIRMAN IGNATIUS: All right. Mr.

[WITNESS PANEL: Large~Smagula~Tillotson~Errichetti]

1 Cunningham.

2 MR. CUNNINGHAM: Madam Chair, I have a
3 package of exhibits. I'll just hand them out now?

4 CHAIRMAN IGNATIUS: All right.

5 (Atty. Cunningham distributing
6 documents.)

7 CHAIRMAN IGNATIUS: So, as you use
8 these, Mr. Cunningham, we'll --

9 MR. CUNNINGHAM: Yes.

10 CHAIRMAN IGNATIUS: -- we'll address
11 them individually for marking for identification,
12 etcetera.

13 MR. EATON: Could I -- one of the
14 documents that has been circulated has the term
15 "confidential" stamped on it and "confidential business
16 information", with a notation that it was "released per
17 November 3rd, 2010 letter to PSNH". I wondered if
18 Attorney Cunningham had that letter? Or else, I would ask
19 him to collect these and not circulate them, if it's still
20 confidential.

21 CHAIRMAN IGNATIUS: Mr. Cunningham, did
22 you hear that? Do you have a copy of this November 3rd,
23 2010 letter to PSNH?

24 MR. CUNNINGHAM: I do not have a copy of

[WITNESS PANEL: Large~Smagula~Tillotson~Errichetti]

1 that letter. But that was a decision, this particular
2 docket -- document relates to the Regional Haze Rule.
3 And, the Regional Haze Rule required that PSNH develop
4 cost figures for BART limits and emission controls in the
5 context of the Regional Haze Rule. In the process of
6 investigation of this issue, we asked DES, because it is
7 required to be public, asked DES to order release of these
8 documents. When PSNH first submitted them to DES, they
9 claimed confidentiality. But, after that discussion, DES
10 released these documents to the Sierra Club and to the
11 public. Those documents are not confidential.

12 CHAIRMAN IGNATIUS: Well, I guess I'm
13 wondering, whose handwriting is it that says it's
14 "released per November 3, 2010 letter to PSNH", and also
15 the "received via e-mail on July 16, 2010"?

16 MR. CUNNINGHAM: I think probably
17 Commissioner Scott would know the answer to that, but I
18 think it's Craig Wright's signature.

19 CHAIRMAN IGNATIUS: There's no
20 signature, but --

21 MR. CUNNINGHAM: Well, it's Craig
22 Wright's handwriting.

23 CHAIRMAN IGNATIUS: Well, this is your
24 exhibit. So, I'm asking you, do you know -- that's not

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1 your writing that says it's released?

2 MR. CUNNINGHAM: It is not.

3 CHAIRMAN IGNATIUS: And, this reportedly
4 comes from PSNH. Does PSNH know what these notations are?

5 MR. EATON: I do not. One letter is
6 signed by Ms. Tillotson, and maybe she can -- she can
7 confirm it at a break. But I'd like them collected until
8 we know, unless Ms. Tillotson confirms that this is in the
9 public arena. Do you know if this has been released in
10 the public arena?

11 WITNESS LARGE: We don't have a copy of
12 anything.

13 MR. EATON: Could we take a break
14 please?

15 CHAIRMAN IGNATIUS: Yes. Why don't we.
16 (Whereupon a brief recess was taken.)

17 CHAIRMAN IGNATIUS: All right. Are we
18 ready to proceed on the issue of the July 9, 2010
19 document, which hasn't yet been introduced, but I know,
20 Mr. Eaton, you were concerned about it even being --
21 sitting in a packet?

22 MR. EATON: Yes. We've not been able to
23 confirm whether this is -- that document is confidential
24 or not. And, we request that it not be introduced. That

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1 whoever has a copy of it, to disregard it for the time
2 being, until we're able to confirm that during a break.
3 And, you know, it could be -- this could have been cleared
4 up had Attorney Cunningham brought along the November 3rd,
5 2010 letter and -- or, had told us about this ahead of
6 time.

7 So, I would ask that everyone who has
8 it, please disregard it, don't read it, until we can
9 confirm that it's no longer confidential.

10 CHAIRMAN IGNATIUS: Well, can I ask what
11 you're doing to confirm?

12 MR. EATON: We would need to call the
13 attorney that works on these proceedings and have her --
14 have her tell us whether there was a letter of
15 November 3rd, 2010, and that it's no longer confidential.

16 CHAIRMAN IGNATIUS: If you have not
17 already made that call, could someone please do that.
18 And, by, when we break at noon, if we get a report back on
19 the response please.

20 And, Mr. Cunningham, let's not go into
21 it now until that's been addressed.

22 MR. CUNNINGHAM: Yes. I regret, Madam
23 Chair, not bringing that letter. But I am totally
24 flabbergasted that it's an issue, because I can represent

[WITNESS PANEL: Large~Smagula~Tillotson~Errichetti]

1 to the Commission that these documents were released into
2 the public.

3 CHAIRMAN IGNATIUS: If you have a copy
4 of that letter in your office, I'd appreciate you making a
5 call also, and asking that it be faxed to the Commission.

6 MR. CUNNINGHAM: I can't do that. I am
7 my office, and there is nobody in my office. So, I have
8 no staff at all.

9 CHAIRMAN IGNATIUS: All right. Let's
10 continue.

11 MR. CUNNINGHAM: I think probably the
12 most, to facilitate the issue, the quickest way to get an
13 answer to that would be to talk to Craig Wright over at
14 DES, because I'm certain it was Craig that made the
15 decision to order it released.

16 CHAIRMAN IGNATIUS: Well, you have an
17 exhibit you'd like to introduce at some point. PSNH is
18 double checking something. I'd rather keep other agencies
19 out of it. And, it may be that this will have to be done
20 after a break later today and involves you running back to
21 the office.

22 MR. CUNNINGHAM: Okay. Fine. Thank
23 you.

24 CHAIRMAN IGNATIUS: But let's continue

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1 with other matters.

2 MR. CUNNINGHAM: These questions are
3 addressed to Mr. Smagula, and likely Ms. Tillotson. And,
4 they relate to the Sierra Club's concern about the
5 adequacy of the planning process, in terms of its planning
6 for environmental programs. And, in the package of
7 documents I supplied to each party, you'll find the New
8 Hampshire Sierra Club data requests. And, I'd like to ask
9 Mr. Smagula some questions about those data requests.
10 When you find that exhibit, and we'll mark that exhibit
11 "New Hampshire Sierra Club Exhibit Number 1".

12 CMSR. HARRINGTON: Do you have a date or
13 anything on identifying that?

14 MR. CUNNINGHAM: Yes. It's a cover
15 letter March 18, 2011, Public Service Company of New
16 Hampshire responses to Sierra Club data requests.

17 WITNESS LARGE: Mr. Cunningham, are you
18 referring to the stapled package that's got a date of
19 "March 18, 2011" at the top?

20 MR. CUNNINGHAM: I am, Mr. Large.

21 WITNESS LARGE: Thank you.

22 CHAIRMAN IGNATIUS: We'll mark this for
23 identification as "Sierra Club 1".

24 (The document, as described, was

1 herewith marked as **Exhibit Sierra Club 1**
2 for identification.)

3 BY MR. CUNNINGHAM:

4 Q. Do you have it in front of you, Mr. Smagula?

5 A. (Smagula) I do. Yes.

6 Q. And, looking at the first data request, the question is
7 about the "Regional Haze BART NOx limit" in the pending
8 New Hampshire SIP for Regional Haze. Would you be good
9 enough to take a look at that question.

10 A. (Smagula) I have the question in front of me.

11 Q. And, did you, as part of this planning process, or did
12 PSNH, as part of this planning process, do calculations
13 with respect to the costs for compliance with the
14 Regional Haze BART NOx limits?

15 A. (Smagula) We review what the NOx limits would be, and
16 then develop our approach to meeting those limits.

17 Q. And, it's true, is it not, that you did cost
18 calculations for compliance with the BART and NOx
19 limits?

20 A. (Tillotson) I heard you start your initial question
21 with "as part of the least cost planning process".
22 And, I would have clarified that, when we submitted the
23 least cost planning process, New Hampshire's work with
24 BART was unfinished. It was an ongoing process. And,

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1 PSNH was working with DES with a number of their
2 initiatives. And, so, that -- those two processes were
3 in parallel. They were not the same.

4 Q. It's true, is it not, then that you did do cost
5 calculations for the NOx BART limits that could have
6 and should have been included in the planning process?

7 A. (Smagula) I'm not sure, I'm not sure I could say we did
8 formal cost calculations. Rather, we did an
9 assessment, we made judgments with regard to various
10 methods of trying to meet emission limits. But there
11 were no hard-and-fast calculations or hard-and-fast
12 studies that could be produced.

13 Q. And, you included no such planning or cost calculations
14 in the Least Cost Plan, did you?

15 A. (Tillotson) The Least Cost Plan would have reflected
16 programs, regulations, *etcetera*, that were in place.
17 It also would have noted that BART was one of those
18 initiatives that were ongoing. And, independent of the
19 Least Cost Plan, not unlike a number of other
20 initiatives that are ongoing, PSNH was working with
21 DES. They will often ask us a series of questions,
22 "what if?" scenarios. That's an ongoing process. We
23 work with their staff all the time, especially given
24 the variability/volatility of so much regulation out

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1 there that is in pending form. And, the BART
2 regulation is one that the State of New Hampshire is
3 responsible for. So, to the extent that New Hampshire
4 -- PSNH was a participate and a respondent to some of
5 their questions, that would have gone on. But it would
6 not have been part of this least cost planning process.

7 Q. And, my question is, did you or did you not do cost
8 calculations in the BART process?

9 A. (Tillotson) Not as part of the least cost planning
10 process.

11 Q. No, no. That's not my question. Did you do cost
12 calculations that could have been included in the least
13 cost planning process?

14 MR. EATON: I'm going to object. I
15 think this question has been asked and answered. And, the
16 witnesses have said "it's not part of the least cost plan
17 process". And, I don't think continuing with this line or
18 asking the same question over and over again is going to
19 get a different response from the witnesses.

20 CHAIRMAN IGNATIUS: Mr. Cunningham.

21 MR. CUNNINGHAM: I would urge the
22 Commission to consider the argument here that these costs
23 were available and should have been included in this least
24 cost planning.

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1 CHAIRMAN IGNATIUS: All right. We can
2 hear that in closings. I just -- I'm not sure I ever
3 heard an answer, "were, in fact, calculations done,
4 independent of whether or not they're part of the Least
5 Cost Plan?"

6 WITNESS TILLOTSON: PSNH responded to a
7 number of requests of DES that would have involved
8 different calculations based on their requests.

9 CHAIRMAN IGNATIUS: All right. Thank
10 you. Continue.

11 MR. CUNNINGHAM: Thank you, madam Chair.

12 BY MR. CUNNINGHAM:

13 Q. The next data request asks a question about the
14 redesignation of the ozone standards. My question to
15 Mr. Smagula and Ms. Tillotson is, did PSNH, as part of
16 this planning process, evaluate the pendency of the
17 ozone redesignation rules?

18 A. (Tillotson) I think, at the risk of repeating myself, a
19 number of these regulations were being looked at. And,
20 we will work with DES, to the extent that they have
21 responsibility to look at BART and ozone standards, and
22 we do that as an ongoing process, as well as a number
23 of other things. But, as part of the least cost
24 planning process, it would have looked at regulations

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1 in place. Some of what you're talking about still is
2 not in place. Some of what you're talking about has
3 since been in place. And, those are efforts that
4 either have been concluded or will continue. But, with
5 a snapshot in time, the Least Cost Plan would have
6 addressed their status at the time.

7 Q. If you look carefully at the question, it notes that
8 "On March 17th, 2008, EPA issued a finding that New
9 Hampshire missed the Clean Air Act deadline for
10 submitting complete plans [for] how PSNH" -- or, "the
11 state [would comply with] the 1997 ozone standards."
12 Were you aware of the delinquency of that plan?

13 A. (Tillotson) Well, the state does have a number of
14 obligations that they work with with EPA. And, the way
15 PSNH can be the most helpful to that process is be
16 responsive to DES in their questions. So, certainly,
17 there's probably a whole host of information around
18 that particular issue, but that's something DES should
19 speak to.

20 Q. And, during that process, did PSNH do a technical or
21 engineering evaluation of its existing plants,
22 Merrimack, Schiller, and Newington, to determine what
23 would have to be done to meet the ozone redesignation
24 once in place?

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1 A. (Tillotson) The ozone work is ongoing now. So,
2 certainly, it was not done in 2010. And, here we are,
3 in 2012, and there is still a significant amount of
4 work being done on those standards.

5 Q. And, has PSNH done any evaluation of the potential
6 costs of compliance with the ozone standard, when it
7 arrives?

8 MR. EATON: Madam Chair, there's
9 something that will continue to come up in these
10 proceedings, and this is one. If you notice, in that --
11 in that question, which is Sierra Club 5, it says "On
12 January 19th, 2010, a determination was made and must
13 submit their attainment designations to EPA by January 7,
14 2011." So, if there are things that are going on that
15 take place after the Summer of 2010, we don't think those
16 are relevant to what PSNH was conducting in its planning
17 process during the Summer of 2010. We cannot determine
18 what a final regulation would be or what the final state
19 plan would be, which is going to be submitted after this
20 Least Cost Plan was filed. So, I'd say that, if this
21 examination goes beyond September 30th, 2010, we have to
22 object.

23 MR. CUNNINGHAM: Once again, madam
24 Chair, that begs the question, this is a planning

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1 document. These programs are going to have seriously
2 substantial operating and capital costs. They should be
3 part of this planning process. And, I'm simply trying to
4 establish whether or not PSNH did the planning that's
5 required for these pending programs.

6 CHAIRMAN IGNATIUS: All right. Let's
7 try to keep the closing arguments on both sides until we
8 get to the end of the case, and focus on the questions.
9 As I recall, the question was "did PSNH do a technical
10 evaluation of the plants to know how to comply with the
11 ozone standards?" And, perhaps you can refine your
12 question, Mr. Cunningham, and perhaps you did and I didn't
13 write it down, on the time frame you're talking about.
14 And, if the Company has a response that relates to what
15 they think is in or outside of the plan, they're free to
16 answer that.

17 MR. CUNNINGHAM: I think I can answer --
18 I can pin the question down.

19 BY MR. CUNNINGHAM:

20 Q. Did PSNH do engineering/technical analysis and cost
21 planning for the redesignation of the ozone rule prior
22 to filing its least cost planning, yes or no?

23 A. (Tillotson) Prior to the submittal of the Least Cost
24 Plan, my recollection would be "no". But, to the

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1 extent that it helps, I do know that we continue to
2 work with DES. And, the one area that the State of New
3 Hampshire is looking at is the SO₂, what are the SO₂
4 standards. And, the current status of that, just to
5 help bring us current, is the Governor wrote a letter
6 not too recently recognizing that the installation of
7 the Merrimack scrubber at Merrimack Station would most
8 likely address that issue. So, to the extent that
9 people were aware of that scrubber installation even
10 back in that 2009-2010 time frame, that would have been
11 part of the looking-forward piece. So, I would say
12 that the installation of the scrubber was recognized as
13 kind of that long-term solution path.

14 Q. Then, let me ask you a follow-up technical question.
15 The scrubber, one of the components of ozone is NO_x, is
16 it not? Will the scrubber reduce the emissions of NO_x
17 from your stations?

18 A. (Tillotson) You are correct that the scrubber is not
19 our NO_x control. In fact, our SCR is our NO_x control.
20 But the State of New Hampshire holds responsibility for
21 all of those ozone standards. And, right now, the one
22 that they are working with with PSNH, specifically, is
23 the SO₂ standard. They have lots of other stakeholders
24 depending on the pollutant that's being looked at. So,

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1 we look to them for guidance. And, right now, they
2 have not made any ask of us in that nitrogen -- NO2
3 type ozone standard.

4 Q. And, to ask you a specific question, has PSNH done any
5 planning with respect to NOx emissions and the
6 potential that it may need to upgrade its SCR?

7 A. (Tillotson) No, because at this point we don't
8 anticipate any need to do anything to increase our
9 currently installed NOx reduction capabilities.

10 Q. So, the answer is, you've "done no engineering or cost
11 assessment of the NOx issue"?

12 A. (Tillotson) To identify incremental costs, because we
13 believe the costs that will be required to address NOx,
14 at least from Public Service Company, those costs have
15 already been incurred through our currently installed
16 NOx control, our SCR.

17 Q. And, my next data request relates once again to the
18 ozone standard. And, I'll pass asking another question
19 about that. The next question, Ms. Tillotson or
20 Mr. Smagula, to look at relates to the MACT standard,
21 the pending MACT standard.

22 A. (Smagula) Which question are you referring to? Seven?

23 Q. It's the one following the question on the final ozone
24 air quality standard that was expected in July of 2011.

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1 A. (Large) Is it referred to, Mr. Cunningham, as
2 "Q-NHSC-007"?

3 Q. That's right, Mr. Large. Thank you very much. And,
4 either Mr. Smagula or Ms. Tillotson, just briefly
5 explain the MACT issue for the Commission.

6 A. (Smagula) Well, that's a very long story, actually, to
7 explain that MACT issue. The MACT issue, as you refer
8 to, is generally referred to as the "Utility MACT
9 Standard", which has had various names for the last
10 five or six years, starting with CAMR, and going into
11 MATS. But the development of that federal requirement,
12 generally referred to as the "Air Toxic Rule", began
13 well before 2008. It really had to do with the Mercury
14 Reduction -- Mercury Emission Reduction Program. And,
15 in 2008, the development of that document was vacated
16 by certain courts.

17 In 2010, the EPA began collecting data
18 from various sources in the country to look at a lot of
19 emission information. From that, they were to propose
20 rules in 2011, and proposed rules were issued in March
21 of 2011. However, upon a review of their draft rules,
22 it was found that they made errors in their
23 calculations to develop mercury emission limits, and,
24 in fact, went into their issued documents and increased

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1 the limits by 20 percent. They also made adjustments
2 to the particulate elements, the particulate emission
3 factors in that document -- in that rule, and that they
4 would measure it in different ways.

5 From that, the court asked them to issue
6 a final rule in November. They received an extension,
7 it was issued in December. It was published in the
8 federal register in February of 2012. I believe it
9 will be -- was to be effective this month. I don't
10 know if that will take place.

11 But, with all of that said, and I think
12 I'm saying this purposely, because going back five and
13 six and seven years is a perfect example of how PSNH
14 cannot take a proposed rule or a proposed end date of a
15 rule and have any confidence that it will, in fact, be
16 finalized, as was conceived and drafted, and that it
17 can be implemented and put in place on the dates that
18 are demonstrated or published. And, this rule has
19 still not received full attention from the industry.
20 And, certainly, court proceedings, stays, and other
21 activities are a potential. And, I think it
22 illustrates a classic example, and there are others,
23 where a proposed rule cannot be accepted by a company,
24 money spent for engineering studies, looking at our

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1 technology to meet proposed or potential emission
2 limits, and then us to put it into our budgets, which
3 then triggers our Treasury Department, who exercise
4 costs to seek potential funds, and our engineering
5 resources to spend funds and their time to develop
6 costs.

7 And, I think, going back to many of the
8 questions raised, and I suspect will be raised, that is
9 why we continue to say, until we know exactly what
10 we're designing to, we don't want to spend our
11 customers' money, and that we have significant
12 investment in the existing resources to meet a lot of
13 the emerging regulations.

14 So, to look at the history of this bill,
15 as you've asked, I think it tells an important story
16 for us to all learn from. As we look at the emerging
17 regulation, which has a mercury emission limit, which
18 has a hydrochloric acid limit, which is a proxy for
19 other acid gases, and a particulate limit, which is
20 also a proxy for gaseous metals, we do look at that.
21 We do look at the emission control equipment, which we
22 have installed. And, as Ms. Tillotson indicated, the
23 scrubber at Merrimack fulfills our obligation to do
24 that. The SCRs at Merrimack fulfills our obligation to

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1 do that.

2 Our management of these emission limits
3 is, to the greatest extent, within the control of our
4 facilities. And that, upon receipt of final limits, we
5 will determine if there are any incremental
6 requirements that we will have to do with our
7 equipment. But, based generally on what we see in
8 writing, which is subject to change, you know, we don't
9 see any significant investments in our facilities.

10 Q. Mr. Smagula, thank you. I totally agree that we can
11 understand -- we both understand that the process for
12 the development of these rules is subject to comment,
13 is subject to public participation, even subject to
14 politics.

15 My question, however, in this planning
16 docket, is did you do an examination of the
17 technical/engineering/cost examination of compliance
18 with the MACT Program? And, if you did so, why haven't
19 you included at least a range of those costs in this
20 planning docket?

21 A. (Smagula) I believe in my, and I don't think I was
22 clear, in what I had just indicated or what I had just
23 stated, that, as these rules evolve and change, we
24 don't spend our customers' money to hire engineering

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1 companies or take our modest technical staff to pursue
2 studies, as you characterize them. We look at the
3 emerging limits. We look at the data on the emission
4 levels of our facilities. We look at the equipment
5 capability. And, we make judgments. We have many
6 years of experience with changing and emerging state
7 and federal regulations. We know the capabilities of
8 our facilities. And, we make judgments as to whether
9 we can, in fact, meet some of these levels that could
10 become finalized.

11 So, the answer to your question is, we
12 don't have formal engineering studies that I can
13 produce, that have charts and tables and calculations
14 in the form of a fully documented fleet assessment for
15 emerging regulations. But we make our professional
16 opinion based on our operational expertise.

17 Q. And, so, I'm still not clear on your answer.

18 A. (Smagula) No.

19 Q. Do you or do not have such information?

20 A. (Tillotson) Certainly, back in 2010, preceding this
21 least cost planning docket, what was the MACT, which is
22 now the MATS, was still being highly debated. And, we
23 would not have had a limit that we could have
24 identified that would have then dictated a technology,

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1 which would then have dictated some of the scenarios
2 that we might have used for compliance. The number of
3 inputs that would have had to have been estimated,
4 forecasted, or create a spectrum of solution really
5 would have become not helpful.

6 In contrast, what we do is, in our
7 day-to-day review of air compliance, we certainly do
8 air compliance daily with a whole team of folks on our
9 staff, and working with DES, we recognize all the
10 regulations that are coming down the track. The State
11 of New Hampshire actually positioned itself well by
12 doing the New Hampshire Clean Power Act. The minute we
13 had the scrubber requirement for Merrimack units, that
14 certainly was a solution path that we knew would
15 address the MACT/MATS rule in almost whatever fashion
16 it would result in. So, to have that sort of
17 initiative and clarity behind us with the Merrimack
18 rules, that allowed us to talk qualitatively, but any
19 kind of quantitative discussion or analysis would have
20 been premature. And, we continued to see those changes
21 even since 2010, and every iteration where we have
22 least cost plan responses and updates, we continue to
23 see changes. So, no, we did not have any studies in
24 place that would have talked to a MATS rule that did

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1 not exist back in 2010.

2 Q. All right. That leads me to the next question, would
3 be my next data request, which relates to the Clean
4 Power Act, and the determination of mercury emission
5 limits under the state law. As I understand it, that
6 New Hampshire Department of Environmental Services
7 established a baseline limit for the input of mercury
8 into the Merrimack and into your fossil units?

9 A. (Smagula) At this time, there is a proposed baseline
10 limit, which has been reviewed by the Company, and we
11 have made a number of comments on it.

12 Q. And, it's fair to say, is it not, Mr. Smagula, that
13 PSNH is litigating with DES over the baseline limits?

14 A. (Smagula) Well, I don't generally use the word
15 "litigating", but I think we've had a difference of a
16 technical opinion. So, we've objected to some of the
17 data. And, we've appealed the position that the DES
18 has taken. And, I suspect that could be called
19 "litigation".

20 Q. And, you fought a challenge before the Air Resources
21 Council challenging the DES establishment of the
22 mercury input baseline?

23 A. (Smagula) Yes, we did.

24 Q. And, could you just very briefly explain to the

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1 Commission what that challenge amounts to, what the DES
2 position is and what the PSNH position is?

3 CHAIRMAN IGNATIUS: Before you respond,
4 Mr. Cunningham, can you give me an offer of proof of why
5 that's relevant to this proceeding?

6 MR. CUNNINGHAM: Because my next
7 question, Madam Chair, is that -- I can give you the
8 synopsis of the argument. PSNH is claiming that they can
9 use coal in its fossil units, including 324 pounds of
10 mercury on the input side. DES has selected a baseline
11 over 100 pounds less than that. And, my question, and
12 what I'm leading up to is, there is going to be cost
13 consequences to PSNH, depending on the resolution of that
14 baseline dispute. And, I want to ask --

15 CHAIRMAN IGNATIUS: And, how does that
16 -- go ahead.

17 MR. CUNNINGHAM: And, I want to ask them
18 about whether they have analyzed that.

19 CHAIRMAN IGNATIUS: All right. And, how
20 does that relate to the 2010 Least Cost Planning document
21 -- or, planning process?

22 MR. CUNNINGHAM: Well, this issue has
23 been pending. And, this is the kind of cost and planning
24 information that at least should be projected in a range

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1 of costs, depending on the outcome of the DES appeal.

2 CHAIRMAN IGNATIUS: All right. If you
3 can focus your questions on PSNH's planning obligations,
4 and not DES requirements and compliance, because this is
5 the wrong forum for that, --

6 MR. CUNNINGHAM: I understand.

7 CHAIRMAN IGNATIUS: -- please do to.

8 MR. CUNNINGHAM: I'm going to get right
9 to the question then.

10 BY MR. CUNNINGHAM:

11 Q. Has PSNH done a cost analysis of the PSNH position on
12 this baseline issue, as compared to the DES position on
13 this baseline issue? And, if they have done such a
14 cost analysis, why wasn't it included in the planning
15 document?

16 A. (Tillotson) This least cost planning process is in
17 parallel to all of our air compliance initiatives that
18 we do at DES. The New Hampshire Clean Power Act
19 compliance dated July 1, 2013, during the completion
20 and submittal of the Least Cost Plan, we were of the
21 opinion that the scrubber installation at Merrimack
22 Station would satisfy that July 1, 2013 compliance.
23 And, we have had no reason to think anything different.
24 So, there is no incremental cost that we have

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1 identified specifically to satisfying the New Hampshire
2 Clean Power Act as the regulation is written.

3 Q. So, your testimony then is that there will be no cost
4 consequences if the DES position prevails, as compared
5 to your position?

6 A. (Large) If I could chime in to support my fellow
7 witnesses here. The question is in terms of pertinence
8 from my perspective. As of September 30th, the Summer
9 of 2010, our expectation associated with the question
10 posed here was that what we had planned was the
11 installation of a scrubber that would have fully
12 complied and met all of these requirements. PSNH had
13 no supposition and no reason to expect that there was a
14 boundary limit that could be reached that would have
15 been in the range of 228 pounds of mercury as a
16 baseline. That was not our expectation. And,
17 therefore, we had no -- no reason, in our view, to
18 consider that as a possibility. So, back when the plan
19 was prepared and filed, what I hear my fellow witnesses
20 say, and my experience working with this team is, this
21 was not a possibility, not a consideration.

22 Q. So, the answer -- the short answer is "no", you did not
23 plan for more stringent requirements in the context of
24 the Clean Power Act or in the context of the federal

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1 MACT standard?

2 A. (Large) No.

3 A. (Smagula) No.

4 Q. Let's go to the next data request. And, that's 009.

5 And, this relates to the question regarding the

6 "cooling water intake" at Merrimack Station. And, the

7 expected rule, as I stated in the question, the cooling

8 water intake rule was expected in March 2011. My

9 preliminary question is, what, if any, planning did

10 PSNH do in conjunction with the Scrubber Project to

11 plan for cooling water intake issues?

12 A. (Smagula) The Scrubber Project does not use any cooling

13 water intake from the Merrimack River. So, I'm not

14 sure I understand your question.

15 Q. Well, let me put it this way. Merrimack Station uses

16 cooling water from the Merrimack River, does it not?

17 A. (Smagula) Yes, the Station does.

18 Q. And, to ask the question in a more general way, what,

19 if any, planning did PSNH do with respect to cooling

20 water issues as part of this planning process?

21 MR. EATON: In 2010.

22 A. (Smagula) As of --

23 MR. CUNNINGHAM: Can I ask the questions

24 please?

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1 MR. EATON: Well, instead of getting up
2 and objecting to all the questions, we -- Mr. Cunningham
3 is still not going along with what the Chair requested,
4 that he confine it to the planning process that was
5 ongoing when we prepared our Least Cost Plan.

6 CHAIRMAN IGNATIUS: I think he did. His
7 question was, "as part of the planning process, did you
8 take into account cooling water intake issues?" So, go
9 ahead and answer the question.

10 **BY THE WITNESS:**

11 A. (Smagula) As of 2010, PSNH had conducted numerous
12 studies on the Merrimack River. Looking at the
13 effects, if any, of the facilities, of Merrimack
14 Station, on the Merrimack River, with regard to its
15 indigenous fish population, and the thermal emissions
16 from Merrimack 1 and 2. Those studies conducted by
17 numerous consultants have led the Company to a position
18 where we believe those fish populations are not harmed.
19 And, as a result, the conclusion the Company had had
20 for numerous years, including our position in 2010, was
21 that there was no large significant investment needed
22 to meet the cooling water intake for the plant. There
23 were a number of questions asked of PSNH by the EPA to
24 collect data on our studies, and we were required to

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1 submit other studies to the EPA. But the Company's
2 conclusion and position, based on the science it had in
3 front of it, was that there were no strict definitions
4 of requirements for cooling water intakes.

5 BY MR. CUNNINGHAM:

6 Q. And, during that process, which appears to be
7 extensive, did PSNH do any examination of costs of the
8 various cooling water scenarios, that we all know now
9 has resulted in a Draft NPDES Permit that has serious
10 cost complications here?

11 CHAIRMAN IGNATIUS: And, Mr. Cunningham,
12 the time frame of your question?

13 MR. CUNNINGHAM: Prior to the filing of
14 the least cost plan.

15 CHAIRMAN IGNATIUS: Thank you.

16 **BY THE WITNESS:**

17 A. (Smagula) The Company, as I indicated, has not, on its
18 own and for its own benefit, conducted any such
19 studies. However, at the request of the EPA, we were
20 asked to do that for them. And, studies were
21 conducted, and those studies were turned over to the
22 EPA in response to a number of data requests that they
23 had given us. And, these data requests were in support
24 of their development of a subsequent Draft NPDES

1 Permit, which was issued late last year.

2 BY MR. CUNNINGHAM:

3 Q. And, did you address those issues in your Least Cost
4 Plan? And, did you, in your Least Cost Plan, at least
5 provide a range of potential capital and operating
6 costs going forward?

7 A. (Smagula) No. As based on the response to your prior
8 two questions.

9 Q. In your discussions with respect to the scrubber
10 installation, did you have conversations with EPA prior
11 to the filing of your Least Cost Plan regarding the
12 handling of the wastewater effluent, the scrubber
13 effluent from Merrimack Station?

14 A. (Smagula) Prior to the date of the Least Cost Plan?
15 Well, -- yes, I recall numerous meetings with the New
16 Hampshire DES regarding effluent from the -- liquid
17 effluent from the Scrubber Project. I don't
18 specifically recall a meeting prior to this filing with
19 the EPA. Although, I guess that would be subject to
20 check.

21 Q. And, in your package of documents, proposed exhibits
22 from the New Hampshire Sierra Club, you'll find an EPA
23 memorandum dated June the 7th, 2010, and attached to
24 that memorandum you'll find EPA guidance on the

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1 handling of the scrubber effluent.

2 A. (Smagula) Yes, I see that document.

3 Q. And, are you familiar with that document?

4 A. (Smagula) Generally, I am familiar with it.

5 Q. And, that document is dated well in advance, is it not,
6 of your least cost filing?

7 A. (Smagula) Yes.

8 MR. EATON: Could we have this marked?

9 CHAIRMAN IGNATIUS: I don't know. Mr.
10 Cunningham, you have some --

11 MR. CUNNINGHAM: That would be "New
12 Hampshire Sierra Club Exhibit 3", I believe.

13 MR. SPEIDEL: Two.

14 MR. CUNNINGHAM: Two, that's right. We
15 backed off on the --

16 CHAIRMAN IGNATIUS: No. Actually, --
17 oh, yes, I'm sorry. Correct. All right. We'll mark this
18 for identification as "Sierra Club 2".

19 (The document, as described, was
20 herewith marked as **Exhibit Sierra Club 2**
21 for identification.)

22 BY MR. CUNNINGHAM:

23 Q. And, without too much technical detail, Mr. Smagula,
24 would you give us the gist of this guidance.

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1 A. (Smagula) I'd be -- I could try to summarize it.
2 However, -- this document does have a date stamp of
3 June 2010. However, we were unaware of this document
4 until we learned of it last year. So, we did not see
5 this document until 2011.

6 Q. So, your testimony is that you're constructing the
7 scrubber, and you weren't aware of this guidance
8 document on how to handle the scrubber effluent?

9 A. (Smagula) This is an internal memorandum, to Region 1
10 and the other regions. And, this is an internal EPA
11 correspondence, which was not made public until we
12 somehow learned about it and were aware of it last
13 year. So, the answer is "no", we were not aware of
14 this guidance document. Which creates a number of
15 questions with regard to the EPA's position on a number
16 of environmental policies, where they're developing
17 policies and opinions, and don't share it with the
18 people who are going to be obligated to meet those
19 standards.

20 But, to further respond to your
21 question, in review of this document, PSNH believes
22 that there are numerous technical and economic errors
23 in it, significant ones. And, in fact, in its comments
24 to the EPA on its Draft NPDES Permit for Merrimack

1 Station expanding on those opinions in detail.

2 Q. Again, I respect that you may have disputes and
3 disagreements with EPA on these regulatory items. But
4 my question once again goes to whether or not you
5 discussed the potential, at least technically, and with
6 a range of costs in your planning filings?

7 A. (Smagula) No, because we were not aware of it.

8 Q. And, I guess my ultimate question particularly on these
9 water effluent issues is, is not a planning document
10 intended to avoid surprises? What, for example,
11 Mr. Smagula, would be wrong with you saying in your
12 planning document "there is a potential that we're
13 going to have to erect a cooling tower", "there is a
14 potential that we're going to have to have a wastewater
15 treatment facility that adequately treats all of the
16 scrubber effluent"? Why not put those kinds of things
17 in your planning documents to avoid surprise?

18 A. (Smagula) I think, in the response to a lot of data
19 requests, we identify the fact that we do not jump to
20 prematurely identify potential costs on things that we
21 do not believe have a significant likelihood of
22 occurring. And, as a result, we don't do that. Our
23 data, as I indicated, for 15 or 20 years on the river
24 indicate that the fish population is healthy and

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1 thriving. It's growing, in fact. And, that the
2 thermal concerns raised by many are not valid, because
3 the fish populations have plenty of zones of passage in
4 the Merrimack or Hooksett pool. And, we did believe
5 and continue to believe that the inclusion of a large
6 capital project that we don't believe is necessary is
7 reasonable. And, as I indicated before, it exercises
8 our technical people, it exercises a lot of costs to
9 hire consultants, it exercises our Treasury and looks
10 at the potential need for further borrowing funds, and
11 really creates costs for our customers that we believe
12 are on the -- are on the extreme of likely. And, as a
13 result, we don't put them in our projected costs.

14 CHAIRMAN IGNATIUS: I'm going to ask
15 that we take a break here, as we agreed to break at noon.
16 But, before we go, we have just a couple minutes. Is
17 there a response from PSNH's phone calling to identify
18 this confidential status of the document Mr. Cunningham
19 brought forth?

20 MS. KNOWLTON: I don't have an answer
21 yet. I'm hopeful that, within the next hour or so, I will
22 have an answer. The attorney that is responsible for the
23 Company's environmental matters was tied up in an
24 out-of-office matter. And, she is on her way to return to

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1 the office to look at this, and she will be in touch with
2 us, once she has an opportunity to do so.

3 CHAIRMAN IGNATIUS: All right. And, Mr.
4 Cunningham, if there's any opportunity over a lunch break
5 for you to retrieve the letter that's referenced here,
6 that would be helpful.

7 MR. CUNNINGHAM: I can drive to my home
8 office and look for it. I know I have it.

9 CHAIRMAN IGNATIUS: I don't know if your
10 home office is in town or not, but, if so, that would be
11 helpful.

12 MR. CUNNINGHAM: Okay. Thank you.

13 CHAIRMAN IGNATIUS: All right. Why
14 don't we take a break. Try to be back and ready to begin
15 again at 1:15. It's 12:00 now. Thank you.

16 (Whereupon the lunch recess was taken at
17 12:00 p.m., and the hearing to resume
18 ***under separate cover*** so designated as
19 ***"Afternoon Session Only"***.)
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