

STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION

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Concord, New Hampshire

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RE: DE 12-116  
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE:  
2011 Reconciliation of Energy Service  
and Stranded Costs.  
(Prehearing conference)

PRESENT: Alexander F. Speidel, Esq.  
(Presiding as Hearings Examiner)

Sandy Deno, Clerk

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

Reptg. TransCanada Power Marketing Ltd.  
and TransCanada Hydro Northeast, Inc.:  
Douglas L. Patch, Esq. (Orr & Reno)

Reptg. Residential Ratepayers:  
Rorie Hollenberg, Acting Consumer Advocate  
Stephen Eckberg, Utility Analyst  
Office of Consumer Advocate

Reptg. PUC Staff:  
Suzanne G. Amidon, Esq.  
Steven E. Mullen, Asst. Dir./Electric Div.

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

ORIGINAL

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**P R O C E E D I N G**

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2 MR. SPEIDEL: Good morning, everyone. I  
3 believe we are on the record at this point. I'd like to  
4 open our prehearing conference in Docket Number DE 12-116,  
5 relating to reconciliation of Energy Service and Stranded  
6 Costs for calendar year 2011 for the Public Service  
7 Company of New Hampshire. I'd like to take note of the  
8 fact that an order of notice was published on this docket  
9 on May the 7th of 2012. And, there is an outstanding  
10 Petition to Intervene on behalf of TransCanada, that has  
11 been objected to by the Public Service Company of New  
12 Hampshire. There was an affidavit of publication filed  
13 with the Commission on May the 29th. And, let's see. The  
14 Office of the Consumer Advocate filed a Letter of  
15 Participation on May the 9th as well.

16 You may refer to me during this  
17 proceeding as "Mr. Speidel". That's fine. I think I'd  
18 like to begin with a general roll call of appearances. I  
19 do understand that TransCanada's Motion to Intervene is  
20 still pending, but at least we can know who's here today.

21 So, I guess we'll begin with the  
22 Company.

23 MS. KNOWLTON: Good morning, Mr.  
24 Speidel. My name is Sarah Knowlton. I'm with Public

1 Service Company of New Hampshire.

2 MR. SPEIDEL: Thank you.

3 MR. PATCH: Good morning, Mr. Speidel.  
4 Doug Patch, from Orr & Reno, on behalf of TransCanada.

5 MS. HOLLENBERG: Good morning. Rorie  
6 Hollenberg and Stephen Eckberg, here for the Office of  
7 Consumer Advocate.

8 MS. AMIDON: Good morning, Mr. Speidel.  
9 Suzanne Amidon, for Commission Staff. And, me today is  
10 Steve Mullen, who is the Assistant Director of the  
11 Electric Division.

12 MR. SPEIDEL: Thank you very much. I  
13 think one way of proceeding is that I'd like to give all  
14 the parties an opportunity to summarize their positions on  
15 the Motion to Intervene by TransCanada. And, I suppose it  
16 would be at the Company's election as to whether you would  
17 like to make your presentation first or last?

18 MS. KNOWLTON: We'll go last. I mean,  
19 TransCanada has the -- is the Petitioner, so...

20 MR. SPEIDEL: That's fine. Mr. Patch.

21 MR. PATCH: Yes. I guess I would start,  
22 I don't believe it's important to repeat what was stated  
23 in the Petition to Intervene, but maybe just to summarize  
24 a few things in there. Excuse me. Obviously, TransCanada

1 has been granted intervention by the Commission in a  
2 number of previous dockets, including DE 10-121, which was  
3 a docket very similar to this one, a reconciliation of  
4 PSNH's 2009 Energy Service and Stranded Costs. You know,  
5 so that was a docket that is very similar in nature to  
6 this one.

7 There have been many other dockets  
8 involving PSNH where TransCanada has been allowed to  
9 intervene. I cited them in the Petition. And, I think  
10 the bottom line on it is that all of these dockets really  
11 interrelate in one way or another. The migration docket,  
12 the IRP docket, the ES dockets, the reconciliation docket,  
13 they all raise issues as they relate to migration, to use  
14 of generation to serve load, to market purchases, and the  
15 methodology involved with that, to the impact on  
16 competitive markets, which is really TransCanada's  
17 concern, as a competitive supplier of electricity in the  
18 State of New Hampshire, and also an owner of generation in  
19 the State of New Hampshire.

20 Oftentimes you will see, in a particular  
21 docket, that PSNH defers and says "well, that should be  
22 raised in another docket, and it shouldn't be raised in  
23 this docket." As an example, in the IRP docket, in  
24 response to a question from the Chair, Mr. Large, in that

1 docket, had basically said that -- that it was -- that,  
2 "with regard to the overall costs of operating a  
3 generating facility, and the evaluation of that, the  
4 appropriate forum to review that in is the migration  
5 docket." That's Day 1, in the afternoon, Page 134 to 136  
6 of the transcript. And, the reason I mention that here is  
7 that, well, of course, the migration docket is, for the  
8 most part, inactive at this point. But I think it's  
9 typical of PSNH, in these situations, to basically say  
10 "well, that shouldn't be in this docket, it should be in a  
11 different docket."

12 MR. SPEIDEL: So, Mr. Patch, just to  
13 summarize TransCanada's position, you believe that  
14 intervention is warranted in this instance, because past  
15 motions to intervenor by TransCanada have been granted for  
16 these reconciliation dockets, and also that there is an  
17 interrelation in subject matter between the dockets. Now,  
18 could you just summarize what you would intend to be  
19 TransCanada's participation mode in this docket? What  
20 TransCanada intends to achieve, if it were to be granted  
21 intervention status?

22 MR. PATCH: Well, I guess what I would  
23 say is that TransCanada has gained a significant amount of  
24 knowledge in these other dockets that it has been involved

1 in. And, it would plan to bring forward information that  
2 goes directly to the prudence of PSNH's operation in 2011,  
3 which is really what this docket is about. I think, if  
4 you look at the statute, it's about "reasonable, actual,  
5 and prudent costs incurred to serve customers", default  
6 service customers in 2011. So, it would be TransCanada's  
7 position that, you know, that it would contribute  
8 significantly in this docket, if it were allowed to  
9 intervene.

10 And, if I could just say a couple of  
11 other quick things. Obviously, one of the things that is  
12 important in this docket is the prudence of supplemental  
13 power purchases. And, I think, if you look back at the  
14 Commission's order in the migration docket, the Commission  
15 denied a request by a number of parties to that docket to  
16 require PSNH to use an RFP when it was making supplemental  
17 purchases. But I think it's important to recognize, and  
18 if you look at the Commission's order in that docket, that  
19 I think the basis for doing that was that the Commission  
20 believed that PSNH basically had to serve load from its  
21 generation first. And, as we have learned in the IRP  
22 docket, PSNH is not doing that. It is, in fact,  
23 curtailing the use of its own generation, because it's  
24 uneconomic. And, I think that should be one of the issues

1 at least that would be addressed in this docket.

2 If you look at Mr. Smagula's testimony  
3 in this docket, the discussion is no longer about  
4 "capacity factors", it's all about "availability". So,  
5 they try to paint a bright picture by showing that their  
6 generation is "available", not that it's been used, but  
7 that it's available. But the Commission, in the migration  
8 docket, basically said that it didn't think it needed to  
9 use the RFP process, because it anticipated that, given  
10 the level of migration, that PSNH would be using its  
11 generation, basically, and wouldn't have a need or very  
12 little need for supplemental purchases.

13 So, I think, perhaps, the Commission  
14 ought to revisit, you know, the basis for not requiring  
15 the use of an RFP for supplemental purchases. Given that,  
16 I think what the Commission anticipated at that point in  
17 time is not what, in fact, has happened.

18 These are all important issues that I  
19 think the Commission needs to address in one place or  
20 another. I would argue at least some of them ought to be  
21 addressed in this docket. I think TransCanada can  
22 contribute significantly to the raising and the addressing  
23 of those issues. I think it would be inconsistent with  
24 precedent and the long-standing practice of this

1 Commission, if TransCanada's participation were either  
2 denied or curtailed in some fashion. So, I would argue  
3 that it's certainly appropriate within the Commission's  
4 authority, and in the best interest of, you know,  
5 customers in general to allow TransCanada's participation.

6 MR. SPEIDEL: Thank you, Mr. Patch.  
7 Does the Office of the Consumer Advocate have a statement  
8 to make at this time on the intervention petition?

9 MS. HOLLENBERG: We have no objection to  
10 the intervention request. Thank you.

11 MR. SPEIDEL: Ms. Amidon, how about  
12 Staff? Does the Staff have a position?

13 MS. AMIDON: No. Staff does not have a  
14 position on the TransCanada motion to intervene.

15 MR. SPEIDEL: Okay. Well, Ms. Knowlton,  
16 does the Company have a statement it would like to make  
17 about the intervention petition?

18 MS. KNOWLTON: Yes. In addition to the  
19 Petition -- the objection to the Petition to Intervene  
20 that was filed with the Commission this morning, I want to  
21 point out that petitions to intervene are governed by  
22 statute here in New Hampshire, RSA 541-A:32. And, in that  
23 statute, the statute provides that a petition to intervene  
24 must be submitted in advance, in writing. Statute says at

1 least three days before the hearing. And, there's a  
2 reason why the petition is submitted in advance of the  
3 hearing. It is an opportunity for a party who seeks to  
4 intervene to state their position in accordance with the  
5 statute. And, if you look at I(a), (b) of the statute,  
6 what it says is that the petition -- well, "the petition  
7 states facts demonstrating that the petitioner's rights,  
8 duties, privileges, immunities or other substantial  
9 interests may be affected by the proceeding or that the  
10 petitioner qualifies as an intervenor under any provision  
11 of law." And, I think the purpose of that statute is, is  
12 that when the petition is filed in advance of the hearing,  
13 that it sets forth -- it sets forth the facts upon which  
14 it seeks -- a petitioner seeks to intervene, so that the  
15 parties to the proceeding, in effect, first of all, have  
16 notice of what the basis for that proposed intervention  
17 is.

18 In this case, if you look at the  
19 TransCanada Petition, what TransCanada says is that  
20 they're "a competitive electric supplier in New  
21 Hampshire", and that they have assets that are sold into  
22 the wholesale market here in New England. But they don't  
23 -- and, therefore, because of those statuses, their  
24 substantial interests, their rights, their privileges,

1 their duties, you know, under the statute may be affected  
2 by the proceeding. But there's no explanation in the  
3 Petition at all that tells us why that is. It's a  
4 conclusory -- those are conclusory statements.

5 And, so, you know, I would submit that  
6 the Petitioner had the burden of proof, and that the  
7 Petition in this case is insufficient on its face. And,  
8 that the statute requires that it be filed in advance for  
9 a reason. I mean, we're just hearing now from TransCanada  
10 a wide, you know, statement of reasons why they think they  
11 should be permitted to intervene, including, essentially,  
12 bootstrapping their status as intervenors in other  
13 dockets, which I don't think is an appropriate standard  
14 for intervention. We certainly have a newly constituted  
15 Commission, which is free to state its views on  
16 intervention, which I think would be helpful. Because, I  
17 think, in this case, where you have a petition that has no  
18 factual support so it, and a petitioner that, at the  
19 hearing, is now seeking to convert its status from other  
20 dockets to a status here, that that's not appropriate.

21 We heard in the IRP docket from Mr.  
22 Hachey that, in his view, TransCanada, he said "we compete  
23 against other competitors." They don't view themselves as  
24 competitors to PSNH. So, I don't really understand what

1 their interest in PSNH's rates would be.

2 I'm also concerned, based on  
3 TransCanada's statement this morning, that there is some  
4 expansion or desire to expand the scope of this docket.  
5 Now, we're talking about, you know, the Commission should  
6 be looking -- revisiting issues that it decided in other  
7 dockets. I mean, that's certainly, you know, with regard  
8 to this idea of issuing RFPs, that wasn't included in the  
9 Order of Notice.

10 So, you know, again, I think we have a  
11 statute for a reason, it says what it does for a reason.  
12 And, petitioners that come and seek to participate in  
13 proceedings, you know, should be required to conform with  
14 the requirements of the statute. Even if you take into  
15 account what we've heard from TransCanada today, I still  
16 think that TransCanada has failed to state a basis under  
17 the statute for participating in this case. And, I would  
18 continue to ask, on behalf of the Company, that that  
19 request be denied.

20 If the Commission were to grant that  
21 request, I think it would be appropriate to place some  
22 limitations on their participation to the particular  
23 issues that relate, you know, to their interests, not  
24 generically. Thank you.

1 MR. SPEIDEL: Thank you very much, Ms.  
2 Knowlton. Would the Company like to make a preliminary  
3 statement related to the docket generally at this time as  
4 well?

5 MS. KNOWLTON: Sure. Thank you. The  
6 Company has filed the testimony of Messrs. Baumann, White,  
7 and Smagula, in support of the reconciliation of the  
8 Stranded Cost Recovery Charge and Energy Service rate. We  
9 certainly look forward to answering questions through  
10 discovery in a technical sessions based on that filing.

11 The Company does seek an order in this  
12 case by the end of the year, in order to put a reconciled  
13 -- reconciled rates in effect for 2012 at the beginning of  
14 the year.

15 And, we look forward to meeting with the  
16 parties, after the prehearing conference is adjourned, to  
17 develop a procedural schedule for this case.

18 MR. SPEIDEL: Thank you. Ms.  
19 Hollenberg, would the Office of the Consumer Advocate like  
20 to make a preliminary statement?

21 MS. HOLLENBERG: Thank you. At this  
22 time, the OCA does not have a position on the filing.  
23 And, we are looking forward to working with the parties to  
24 develop the procedural schedule and to proceed through

1 discovery and to the full hearing. Thank you.

2 MR. SPEIDEL: Thank you. Ms. Amidon.

3 MS. AMIDON: Thank you. At this point,  
4 Staff doesn't have a position. And, as is customary in  
5 this docket, we will develop a procedural schedule and  
6 conduct a thorough review of all the issues in the docket,  
7 and so that we can ultimately make a recommendation to the  
8 Commission following discovery, testimony, and at  
9 technical sessions. Thank you.

10 MR. SPEIDEL: Thank you very much. With  
11 regards to the Petition to Intervene, as part of my  
12 Hearings Examiner's Report, I will develop a  
13 recommendation for the Commission to consider this matter.  
14 I'll note, as a general matter, that in past instances the  
15 Commission has, on its own initiative, and also through  
16 its own administrative discretion, limited intervention  
17 and scope for these types of reconciliation dockets. So,  
18 in any instance, I will take all of these arguments under  
19 advisement, development a recommendation for the  
20 Commissioners, and file it as part of my Hearings  
21 Examiner's Report, that will be produced in the very near  
22 future.

23 I do note that there will be a technical  
24 session at which a procedural schedule will be developed

1 for this docket. And, I would imagine that the Staff will  
2 prepare a report, a prehearing conference report that will  
3 incorporate an agreed upon schedule for recommendation to  
4 the Commission?

5 MS. AMIDON: That's correct,  
6 Mr. Speidel.

7 MR. SPEIDEL: Thank you. So, in any  
8 instance, I thank you all for your participation. And, I  
9 look forward to seeing the Staff report. And, I wish you  
10 all a good day.

11 (Whereupon the prehearing conference  
12 ended at 10:21 a.m., and a technical  
13 session was held thereafter.)  
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