

**STATE OF NEW HAMPSHIRE**  
**before the**  
**PUBLIC UTILITIES COMMISSION**

Docket No. DE 14-238

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE**

**Determination Regarding PSNH's Generation Assets**

**MOTION REGARDING DESIGNATION OF STAFF**

Pursuant to RSA 365:32, RSA 365:33, and Rule Puc 203.07, the Office of Energy and Planning, Designated Advocate Staff, the Office of Consumer Advocate, New Hampshire District 3 Senator Jeb Bradley, New Hampshire District 15 Senator Dan Feltes, the City of Berlin, New Hampshire, Local No. 1837 of the International Brotherhood of Electrical Workers, the Conservation Law Foundation, TransCanada Power Marketing Ltd., TransCanada Hydro Northeast Inc., the New Hampshire Sustainable Energy Association d/b/a NH CleanTech Council, Public Service Company of New Hampshire d/b/a Eversource Energy, Eversource Energy and Non-Advocate Staff (the “Movants”) join in this Motion. The Movants respectfully request that per RSA 365:32 and RSA 365:33 the Commission rule that matters relating to the process of implementing the proposed divestiture of PSNH’s generating assets be dealt with in a new proceeding or deemed a separate “phase or segment [that] shall constitute a separate proceeding for purposes of the application of [the Designation law].”

In support of this Motion, the Movants state:

1. On March 20, 2015, Commission General Counsel F. Anne Ross and Commission Director-Electric Division Thomas C. Frantz requested designation as Staff

Advocates under RSA 365:32, II due to their participation in the negotiation of and their status as parties to the 2015 PSNH Restructuring and Rate Stabilization Agreement (the “2015 Settlement Agreement”).

2. By Secretarial Letter dated March 23, 2015, the Commission so-designated Ms. Ross and Mr. Frantz.

3. Section X of the 2015 Settlement Agreement calls for matters relating to the administration of any divestiture auction, issuance of a finance order implementing RRBs, and calculation and reconciliation of the stranded costs recovery charge to be dealt with in a new Commission docket following approval of near-term divestiture.

4. Similarly, in the partial Litigation Settlement filed with the Commission contemporaneously with this Motion, the Settling Parties to the 2015 Settlement Agreement and Non-Advocate Staff have agreed to further details regarding how matters relating to an actual divestiture auction process should be determined. Part of the Litigation Settlement calls for the establishment of a new docket to deal with auction design issues. (Section 24). The Movants have also agreed in the Litigation Settlement that “it is premature to establish a specific auction design prior to the Commission’s retention of an expert auction advisor” (Section 18) and “that it would be in the interest of ratepayers for the RFP for an auction advisor to commence prior to a final Commission order approving or disapproving the Settlement Agreement, so long as payment under any contract entered into with an auction advisor is conditioned upon Commission approval of the Settlement Agreement.” (Section 20).

5. As both the 2015 Settlement Agreement and the Litigation Settlement anticipate and request the opening of a new proceeding to deal with auction process matters,

the Movants agreed as part of the Litigation Settlement to the filing of the instant Joint Motion seeking immediate removal of the Staff Advocate designation for purposes of matters relating to the auction process and other matters that would be dealt with the a follow-on docket to this proceeding.

6. RSA 363:32 expressly provides the Commission with authority to grant this request. RSA 363:32, IV states in relevant part:

**363:32 Designation of Employees. –**

IV. Unless the commission provides otherwise, any such designations shall only be applicable to a specified adjudicative proceeding.

7. RSA 363:33 provides the Commission with additional authority to grant this request:

**363:33 Phased or Segmented Proceedings. –** If a proceeding is phased or segmented so that one or more parts of the proceeding are nonadjudicative and one or more parts are adjudicative, the commission may by order provide that each phase or segment shall constitute a separate proceeding for purposes of the application of this subdivision.

8. By granting this Motion, the Commission would provide the parties an opportunity to begin work on an auction process in a preliminary and non-binding manner, starting immediately upon the Commission's approval of this Motion with collaboration on a competitive Request for Proposals ("RFP") process to procure an auction advisor. By proceeding in parallel with such actions rather than having to await a final decision in the instant docket, the desire of the Legislature to expedite the restructuring process would be honored, as stated in 1996 N.H. Laws, 129:1, V ("It is in the best interests of all the citizens of New Hampshire that the general court, the executive branch, and the public utilities commission work together to establish a competitive market for retail access to electric power

as soon as is practicable and that interim stranded cost recovery charges be determined and put into effect for each utility operating in this state to expedite and facilitate the transition for such a market.”); RSA 374-F: XV (“The commission should seek to implement full customer choice among electricity suppliers in the most expeditious manner possible.”); 1996 N.H. Laws, 129:3 (“If any party challenges any provision of RSA 374-F as inserted by section 2 of this act or any application thereof in court, then the general court urges the court of jurisdiction to give priority to and expeditiously adjudicate any such challenge.”); 1998 N.H. Laws 191:1, I (“Circumstances beyond the control of the public utilities commission may delay implementation of electric utility restructuring and customer choice beyond July 1, 1998. Further delay will harm the state's economy and cause a continued burden on the state's citizens, commerce, and industry.”); 2001 N.H. Laws, 29:3, III (“...the general court finds that competitive electricity markets should provide benefits for customers over the long term. When the sale of PSNH's fossil and hydro generation assets is in the public interest, the public utilities commission should proceed with the sale of those assets in order to establish competitive electricity markets.”); and, RSA 369-B:3-a, II as amended by 2015 SB 221 (“As part of an expedited proceeding, the commission shall review the 2015 settlement proposal... .”)

9. The following intervenors assent to the relief requested in this Motion:

- New England Power Generators Association
- Retail Electric Supply Association
- Mr. Terry Cronin

10. The following intervenors take no position on the relief requested in this

Motion:

- Sierra Club
- Granite State Hydropower Association
- North American Power Co.

**WHEREFORE**, the Movants respectfully request that the Commission immediately rule that the Staff Advocate designation for Ms. Ross and Mr. Frantz shall only apply to the phase of this docket concerning whether or not the 2015 Settlement Agreement and near-term divestiture of PSNH's generation assets should be approved, and such designation shall not apply to matters relating to any auction process and establishment of a securitization finance order.

Respectfully submitted this 26th day of January, 2016.

By: 

**Robert A. Bersak**  
**Chief Regulatory Counsel**

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**Certificate of Service**

I hereby certify that a copy of this Motion has been served electronically on the persons on the Commission's service list in this docket in accordance with Puc 203.11 this 26<sup>th</sup> day of January, 2016.

A handwritten signature in black ink, appearing to read "Robert Bersak", written in a cursive style.

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Robert A. Bersak