

**BEFORE THE NEW HAMPSHIRE GENERAL COURT
HOUSE SCIENCE, TECHNOLOGY AND ENERGY COMMITTEE**

FEBRUARY 2, 2012

**TESTIMONY OF DANIEL ALLEGRETTI
ON BEHALF OF
THE RETAIL ENERGY SUPPLY ASSOCIATION**

Good morning, my name is Daniel Allegretti. I am a Vice President for energy policy with Constellation Energy, a fortune 200 company located in Baltimore, Maryland and a licensed retail electric supplier here in New Hampshire. Today I am before you in my capacity as the New England chair of the Retail Energy Supply Association, a nonprofit organization and trade association that represents the interests of its members in regulatory and legislative proceedings in the Mid-Atlantic, Great Lakes, New York and New England regions. RESA's members include providers of competitive supply and related services throughout the five New England states that have implemented electric restructuring, including in the service territories of Public Service Company of New Hampshire ("PSNH") and other New Hampshire electric utilities.¹

Let me begin with this:

*Increased customer choice and the development of competitive markets for wholesale and retail electricity services are key elements in a restructured industry that will require unbundling of prices and services **and at least functional separation of centralized generation services from transmission and distribution services.** RSA 374-F:11.*

and this:

Generation services should be subject to market competition and minimal economic regulation **and at least functionally separated from transmission and**

¹ Constellation is a RESA member company, as are ConEdison Solutions; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energy Plus Holdings, LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Gexa Energy; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; PPL EnergyPlus; Reliant Energy Northeast LLC; and Noble Americas Energy Solutions, LLC

distribution services which should remain regulated for the foreseeable future. RSA 374-F:3 III

These statements are both taken from New Hampshire's landmark electric restructuring law, which was enacted in 1996. They express one of the essential goals of the General Court in moving away from a system of regulated electric monopolies to a restructured industry in which competition for customers drives efficiencies, savings and innovation in the production and sale of electricity. Toward that goal, Unitil and Granite State Electric Company both fully exited the generation and electricity supply business and became electricity delivery companies, merely arranging for the provision of default service to their remaining customers through outsourcing agreements with competitive generation suppliers. PSNH also started along that same restructuring path and in 2002 made substantial progress with the divestiture of its interest in Seabrook Station. At that time, the Public Utilities Commission noted that the sale of PSNH generation was not only consistent with the legislative principles noted above but was also required under the commitments the company made in its Restructuring Agreement with the State of New Hampshire. In the Commission's words:

[T]he Restructuring Agreement calls for the public sale of PSNH's entire generation portfolio and contains specific provisions relative to the sale of the NAEC Seabrook interest at public auction. Under the Restructuring Agreement, the overall objective in selling PSNH generation assets or entitlements is "to maximize the net proceeds realized from the sale in order to mitigate Stranded Costs, to provide a market-based determination of Stranded Costs, and to help establish a competitive energy market, while at the same time providing certain employee protections." Restructuring Agreement at 39. NHPUC, Order No. 24,050, (September 12, 2002), at 33.

Along the way to completing the restructuring of the industry, however, PSNH and the General Court agreed to suspend the divestiture of the company's remaining generation assets and implemented this suspension through the passage in 2003 of Senate Bill 170. That law requires PSNH to use the generation assets for the provision of default service to its remaining customers. At that time the cost of power from those facilities, primarily due to the use of coal, appeared to be favorable relative to the market in general.

Since 2003, however a lot has changed. New environmental mandates have required costly new capital investments in the PSNH fleet, particularly at the Merrimack Station coal plant in Bow. These investments have put upward pressure on the price of PSNH default service. At the same time, there has been an incredible increase in the supply of domestic natural gas in the United States brought about through the deployment of

hydraulic fracturing and directional drilling to unlock the gas trapped within shale deposits. This new bounty of natural gas has, in turn, caused the market price of electricity to fall below the cost of power from the PSNH portfolio. What's more, we can expect this plentiful natural gas supply to be with us for some time to come. Thus, whatever cost advantage may have been achieved through retaining the PSNH fleet back in 2003 is now gone.

In May of 2010, PSNH informed the Public Utilities Commission that customers were leaving its default service and creating a problem for the company. As customers leave, and buy lower cost power from competitive suppliers, the cost of PSNH's power supply must then be recovered from a shrinking pool of customers who remain on default supply. This pushes the price of default service higher, drives away more customers and creates a destructive cycle of increasing default service prices. Because it is increasingly residential and small businesses that remain on default service, these classes take the brunt of the increased default service rates. To end this cycle, RESA member companies, power generators, the OCC and others all recommended to the Public Utilities Commission that PSNH divest its plants and arrange default service supply from the marketplace, as Unil and Graniste State have done. Finding a lack of statutory authority to compel divestiture, the Commission has deferred that decision to the General Court, prompting the need for House Bill 1238.

In considering this bill there are a number of key points to keep in mind.

- **With divestiture investors, not consumers, bear the risk of capital investment.** This is the most compelling reason to move forward with divestiture. Prior to 1996, utility companies and their government regulators made decisions as to where customers would get their power and what they would pay for it. Today, customers are empowered to make their own decisions about energy supply and consumption and choose what to buy and from whom in the marketplace, resulting in approximately thirty percent of the load being served by an alternate supplier.
- **Restoring the requirement to divest is not a violation of PSNH's property rights.** As noted above, divestiture is an obligation under the Restructuring Agreement between PSNH and the State. Under that agreement, PSNH has been allowed to collect hundreds of millions of dollars through stranded cost recovery charges. In exchange, customers were promised the freedom to choose and the ability to avoid having to pay for future capital investments in generation. While Senate Bill 170 allowed for the suspension of divestiture, it was never intended to permanently relieve PSNH of the obligation to divest once the continued use of the plants to provide default service was no longer economic.

- **The PSNH plants are not necessary to provide affordable and reliable default service.** This issue was amply addressed at the time Seabrook Station was sold. There is a wholesale electricity market in New England from which ample and reliable supply can be procured. Unitil and Granite State Electric procure their full default service requirements from this market and have done so for over a decade. Likewise PSNH's sister companies, Connecticut Light and Power and Western Massachusetts Electric Company, as well as almost every other electric distribution utility in the region, also procure reliable, competitively priced default service requirements from this same market.
- **PSNH has always been, and will continue to be permitted to compete in electricity markets on a fair and equal basis.** The point here is not to preclude any company from owning generation and competing in wholesale and retail electricity markets. The point here is that participation in these markets should be through an affiliate that relies upon shareholder capital and success in the marketplace, not on recovery from ratepayers through its regulated distribution business. Indeed, at one time Northeast Utilities did participate on an equal basis through such an affiliate, known as Select Energy. Although that affiliate eventually became unprofitable and folded, because it was separate from regulated affiliates, such as PSNH, none of its losses were passed on to customers through rates.
- **Divestiture is a process that has already been successfully overseen and implemented in New Hampshire and elsewhere.** While there are many examples, across the region, of successful divestiture auctions, the most compelling example is perhaps the sale of Seabrook Station in 2002. In its report and order on the sale the Commission described the success of the process as follows:

The record clearly indicates that the auction was conducted in a formal, competitive manner. It was designed to encourage maximum participation, engender the trust of the bidders, and was structured in a manner that fairly and objectively identified the buyer that provided the highest price for the assets and the best overall terms and conditions of the sale. As a result, we find that JPMorgan maximized the value of the sale and it will result in a corresponding mitigation of stranded costs for the benefit of those New Hampshire retail utilities with stranded cost recovery obligations. NHPUC Order No. 24,050 (September 12, 2002).

That concludes my testimony. Once again I would like to thank the Committee for the opportunity to submit this testimony and offer to answer any questions you may have as you deliberate this important bill.