

**TESTIMONY
OF
SANDI HENNEQUIN**

ON BEHALF OF

NEW ENGLAND POWER GENERATORS ASSOCIATION (NEPGA)

2009 – House Bill 496

SCIENCE, TECHNOLOGY AND ENERGY COMMITTEE

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Good afternoon and thank you for the opportunity to testify. My name is Sandi Hennequin and I am the Vice President of the New England Power Generators Association (“NEPGA”). NEPGA is the largest trade association representing competitive electric generating companies in New England. NEPGA’s member companies represent approximately 26,000 megawatts (MW) of generating capacity throughout New England, and over 2,600 MW of generation in New Hampshire, representing a majority of the electric generating capacity in New Hampshire. Our member plants within the state are many and include FPL Energy’s Seabrook Station, North American Energy Alliance (NAEA)’s Newington Energy Facility, Granite Ridge Energy, and Brookfield Renewable Power’s hydroelectric facilities in northern New Hampshire. NEPGA’s mission is to promote sound energy policies which will further economic development, jobs and balanced environmental policy.

NEPGA’s Position

NEPGA’s members support H.B. 496, particularly the intent of this bill – to make sure the right questions are being asked regarding the proposed scrubber investment at Merrimack Station in Bow, New Hampshire. While NEPGA is not convinced that this bill represents the only – or the preferred approach – to addressing the scrubber issue, it believes this bill is important and worthy of more work and study by the Committee. To articulate our membership’s position on this bill, I would like to address three main topics – accountability, the scrubber project’s true costs, and the “doomsday scenarios.”

Accountability

During the late 1990's, New Hampshire lawmakers decided to pursue the restructuring of the electric industry within the state. One of the driving factors behind this policy change was to transfer risks and accountability from the ratepayers to the market. If an entity wanted to build, or make improvements and enhancements to a generation asset, shareholders and the market bore the risks and provided accountability, not the captive ratepayers of a utility. Unfortunately in New Hampshire we are stuck in the "hybrid" model of restructured electric markets. The industry has some characteristics of a competitive restructured model – customer choice of supplier, merchant generation plants, and competitive procurement of energy by some utilities. However, there are also elements of the old monopoly cost-of-service model such as the continued ratepayer financing of Public Service of New Hampshire ("PSNH") generation assets. The issues surrounding PSNH's proposed scrubber addition at Merrimack fall into the old monopoly cost-of-service model, and demand that there is some sort of accountability to the ratepayers who will be forced to finance this project.

H.B. 496 attempts to correct the missing link in the "hybrid" competitive model and provide the necessary measure of accountability for the scrubber project. The tool for providing the accountability is the proposed cap on the amount of PSNH financing that may be recovered from the captive ratepayer base. If PSNH were like our merchant generation members and looking to finance this type of capital investment, the accountability would come from our shareholders, not from captive ratepayers. Absent the measure of accountability that comes from shareholders weighing a proposed

financing decision and deciding whether the market can bear the costs, H.B. 496 attempts to provide this type of check through a cap that represents the amount that is reasonable to ask the captive ratepayer base to finance.

There is clearly a desperate need for accountability and transparency regarding the Merrimack scrubber project. During a Department of Environmental Services (“DES”) briefing earlier this week, the Science Technology and Energy Committee was briefed on the requirement for PSNH to annually go before the Electric Utility Restructuring Oversight Committee and provide an update on the budget and process for installing the Merrimack scrubber. This is a positive check on the process – if actual real meaningful data are shared. However, as we learned on Tuesday this is not always the case. In June 2008, PSNH went before the Electric Utility Restructuring Oversight Committee and made no mention of the estimated scrubber costs or the reality that the proposed \$250 million price tag had almost doubled to a new price tag of \$457 million. However, almost six weeks later in a required filing to the U.S. Security and Exchange Commission (“SEC”), PSNH revealed the new \$457 million estimate for the Merrimack scrubber project. It is hard to not wonder where the accountability is in this process – did PSNH not know in June that the price for its project had almost doubled, or did it just discover this fact in August? Shareholders would have the ability to ask these types of questions – captive ratepayers need the tools to demand accountability as well. Clearly, an investment of this amount – be it \$250 million or \$457 million – being financed through a captive ratepayer base must have a measure of accountability.

The True Costs

Whether the real cost of the Merrimack scrubber project is \$250 Million or \$475 Million, or some other number, it is important to understand all the true costs of the proposed Merrimack scrubber. When a regulated utility such as PSNH makes a capital investment, it earns a Return on Equity (“ROE”) stream of revenue, fully recoverable through captive ratepayer financing. This revenue stream needs to be factored into any estimate of the true costs of the Merrimack scrubber project. For our discussion today, assume that half of the projected \$475 Million price tag for this project represents PSNH’s capital investment. The ROE for this project – in the range of 9.5-10 percent – would be applied to the estimated \$237.5 Million of capital investment for this project, with the product of this revenue calculation being added to the current \$457 million price tag. Thus accounting for this true cost would make the actual amount of financing being requested from the captive ratepayer base exceed the current \$457 Million estimate. And the question must also be asked – are there any other costs that will need to be factored in such as the impacts of any new federal legislation or federal standards? Clearly, the proposed financing by captive ratepayers of this amount – whether it be \$250 Million or \$457 Million or a likely higher number – must reflect all the true costs of the project, including the guaranteed recovery of a ROE by a regulated utility for capital investments.

The Doomsday Scenarios

Finally, opponents of this bill are trying to scare you. They argue that passage of this bill, or SB 152 in the Senate, will force the closure of Merrimack Station. With this

imminent closure, they argue that PSNH customers will be forced to pay higher spot market prices for energy and reliability will be compromised. The facts simply do not agree. First, there is no guarantee as PSNH has told you that the “replacement” power for Merrimack’s capacity and energy will be higher, especially once the cost of the scrubber investment would be factored into PSNH rates. From time to time, PSNH’s electric rates are lower than other utilities in the state and region, and from time to time its electric rates are higher. If PSNH did not have its own generating capacity, or not enough to match its customer load demand, it would have the option to procure necessary power from the market through a competitive procurement process, not from speculative spot market purchases from the market. As the other distribution utilities in New Hampshire and utilities in Maine, Massachusetts, Rhode Island and Connecticut – including PSNH’s parent company Northeast Utilities currently do, PSNH could conduct a competitive procurement process for its necessary supply.

Over 85% of the electric supply in New England is not provided through utilities owning generation, it is provided through a transparent, competitive procurement process. Typically this involves a RFP process for supply with shorter 3 month terms for larger commercial and industrial customers, and longer 6 month to one-year terms for residential and small commercial customers. In this process, the utility issues an RFP, competitive suppliers bid to provide the service, and there is a transparent process whereby offers from multiple suppliers are evaluated and the lowest cost option is chosen. If the market changes and the lower cost option become more expensive for the winning supplier, the extra costs to provide this service are the burden of the supplier,

not the utility's customers.

Not only is it not true that the costs to replace Merrimack power would necessarily be higher, it is simply not true to state that there would not be the available capacity to replace this power. I and many others in this state, including the utilities in New Hampshire, PUC staff and representatives for the Consumer Advocate's office were parties to a Settlement process in late 2005 and early 2006 that led to the development of the Forward Capacity Market (FCM) for New England. Under this model, the ISO New England, ("ISO-NE") in consultation with the region's stakeholders, will develop estimates based on load forecasts of the amount of capacity necessary to meet New England's needs, or the region's Installed Capacity Requirement ("ICR"). On an annual basis, the ISO-NE will conduct an auction process, the Forward Capacity Auction ("FCA") to procure this power. To date there have been two FCA's conducted – one in February 2008 for Power Year 2010 (June 2010-May 2011) and one in December 2008 for Power Year 2011 (June 2011-May 2012). In both FCA's there has not only been excess capacity that has qualified to participate in the auction and provide capacity, there has been excess capacity that has been procured in the auction because it was willing to provide capacity at the established floor prices for the auction.

During the first FCA in February 2008, the ISO was looking to buy 32,305 MW of capacity for the region's needs in 2010. When the auction started, there was 38,411 MW of resources qualified to participate in the auction – an excess of 6,106 MW. After eight rounds of the auction, the ISO bought 2,047 MW of excess capacity because this

excess capacity was willing to be paid the floor price established for the auction. This amount – 2,047 MW of capacity – is nearly double the capacity that is provided by all of PSNH's power plants or more than four times what is provided by Merrimack Station.

During the second FCA in December 2008, the ISO was looking to buy 32,258 MW of capacity for the region's needs in 2011. When the auction started, there was 42,777 MW of resources qualified to participate in the auction – a third more capacity than was actually required to meet the region's reliability requirements. After eight rounds of the auction, the ISO bought 4,914 MW of excess capacity because these resources were willing to be paid the floor price established for the auction. This amount – 4,914 MW of capacity – is more than four times the amount of capacity that is provided by all of PSNH's power plants or more than eight times what is provided by Merrimack Station.

Finally, it is important to note that if PSNH were to make the decision to close Merrimack, there are checks provided by the ISO in the retirement process. Currently all existing capacity in New England must participate in these annual FCA's. To decide to not participate for whatever reason, including an impending retirement, a resource must submit something called a "permanent de-list" bid to the ISO. Before deciding whether to accept this bid to retire, the ISO will conduct an evaluation of the plant and ensure that its retirement does not in any way jeopardize the reliability of the electric grid in New England. This determination – that the retirement of a generating asset would not harm reliability – has to be made before any existing generation plant in New England can retire.

Clearly if this bill were to pass and PSNH decided to retire Merrimack Station, the doomsday scenarios of rolling blackouts or forced, expensive speculative purchases of energy from a spot market would not occur. Most other utilities in the state and region competitively procure supply to meet the demands of their customers through an open transparent procurement process. As the results from the first two Forward Capacity Auctions illustrate, there is plenty of excess capacity that is not only qualified to provide capacity for the region, but is willing to do it at an established floor price. The ISO provides an additional safeguard to the process by being responsible for making a determination before any generating asset can retire that it will not jeopardize the reliability of the region's electric grid if it were to retire. As lawmakers weigh the merits of H.B. 496, and similar bills to H.B. 496, it is important to weigh the merits of the Merrimack scrubber investment on the facts, not on unrealistic doomsday scenarios.

Conclusion

As stated earlier, NEPGA supports the intent of this bill – that an investment of this magnitude by a regulated utility with financing through a captive ratepayer base – must be accountable, reflect all true costs including the revenue stream from the Return on Equity adder on capital investments, and be judged on the facts, not doomsday scenarios. NEPGA remains open to other approaches besides the \$250 Million cap on recovery such as the PUC review process offered in Senate Bill 152. Regardless of which approach is ultimately adopted, it is imperative the accountability and transparency is injected into this process. I would encourage the Committee to support the continued study of the scrubber investment and ensure that all the facts are known

and verified before asking the captive ratepayer base in this state to finance this large capital investment.

Thank you for this opportunity to testify before you today. I would be happy to answer any questions from the Committee.