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February 29, 2016

VIA CERTIFIED MAIL

Mr. Eric P. Nelson
U.S. Environmental Protection Agency
Office of Ecosystem Protection
Ocean and Coastal Protection Unit (OEP06-1)
5 Post Office Square – Suite 100 (COP)
Boston, Massachusetts 02109-3912

**Re: November 30, 2015 EPA Region 1 CWA Section 308 Information Request
Merrimack Station Temperature Data**

Dear Mr. Nelson:

This letter and the enclosed documents and compact disc ("CD") constitute the response of Public Service Company of New Hampshire d/b/a Eversource Energy (hereinafter "PSNH" or "the Company"), to Region 1 of the Environmental Protection Agency's ("EPA") Clean Water Act ("CWA") Section 308 Information Request ("308 Request") dated November 30, 2015, received by PSNH on December 3, 2015. PSNH was initially provided 30 business days to respond to the 308 request but requested and obtained through written correspondence between the undersigned and Mr. Ken Moraff, Director of the EPA Office of Ecosystem Protection, an additional 45 calendar days to respond to the information request due to the breadth of other issues the Company was addressing at the time it received the 308 Request.

As you know, PSNH is not required to maintain many of the records, data, and/or analyses that are the subject of the 308 Request. To the extent this 308 Request seeks to compel PSNH to generate any historical data or manipulate existing historical data and produce it in some particular form that is different from how the Company typically maintains its business records, PSNH objects to it as exceeding the scope of EPA's authority under CWA Section 308. Subject to and without waiving the aforementioned objection, PSNH has elected to provide the requested data and analyses to EPA to further substantiate its Section 316(a) variance request. The enclosed data and analyses provide additional proof that the establishment of alternative thermal discharge limits are warranted because proposed technology limits for the control of the thermal component of the discharges from Merrimack Station will require effluent limitations

more stringent than necessary to assure the protection and propagation of the balanced indigenous population within the relevant segment of the Merrimack River.

This 308 Request was initiated following PSNH's September 4, 2015 letter to EPA explaining that the agency had misinterpreted key thermal results presented in Normandeau Associates' April 2007 report entitled "A Probabilistic Thermal Model of the Merrimack River Downstream of Merrimack Station." EPA's misinterpretation of these results undercuts the agency's entire CWA § 316(a) analysis and, ultimately, its conclusions based on that analysis.

Enclosed with this response please find the following:

- 1) Review of Technical Documents Related to NPDES Permitting Determinations for the Thermal Discharge and Cooling Water Intake Structures at Merrimack Station, prepared by Dr. Lawrence W. Barnthouse (Attachment A);
- 2) Hardcopy versions of available temperature data in PSNH's annual reports from 1984 through 2015 (Attachment B);
- 3) Electronic versions of available temperature data in PSNH's annual reports from 1984 through 2015 (on enclosed CD);
- 4) Response to United States Environmental Protection Agency CWA § 308 Letter, prepared by Enercon Services, Inc. and Normandeau Associates, Inc., which includes as an appendix hardcopy versions of calculations of the available temperature data sought in Request 3 of the 308 Request (Attachment C); and
- 5) Electronic versions of calculations of the available temperature data sought in Request 3 of the 308 Request (on enclosed CD).

PSNH has expended considerable time and resources to respond to this 308 Request. In making this or any other response to any EPA information request, PSNH waives no rights, defenses, claims, or remedies, and makes no admission of fact, law, or liability.

PSNH has responded to this 308 Request with assistance from employees and third-party consultants. The Company has consulted its outside legal counsel in the preparation of these responses. The consultations with all of the aforementioned parties were conducted by or at the direction of PSNH's attorneys and are privileged and confidential communications, attorney work product, or both.

Without waiving any of the foregoing qualifications and objections, PSNH has included the relevant numbered question from the 308 Request below, followed by PSNH's responses to each.

Request 1:

Please provide a copy of Dr. Larry Barnthouse's review and conclusions of the water temperature data which was referenced in Ms. Landis's September 4, 2015 letter.

Response to Request 1:

PSNH objects to this request to the extent it seeks documents or information protected from disclosure by the attorney-client privilege or attorney work product doctrine. Subject to and without waiving the aforementioned objections, Dr. Barnthouse did not generate a final report memorializing his “review and conclusions of the water temperature data” prior to submission of the September 4, 2015 letter. In response to this request, Dr. Barnthouse completed the report enclosed as Attachment A that contains his review and conclusions pertaining to EPA’s misinterpretation of key results presented in Normandeau Associates’ April 2007 report entitled “A Probabilistic Thermal Model of the Merrimack River Downstream of Merrimack Station.”

Request 2:

Please provide Eversource’s water temperature data used in the annual reports for the period referenced above (i.e., 1 April - 31 October of 1984 - 2004 for Monitoring Stations N-10, S-0, and S-4). In the annual reports, these tables present the instantaneous maximum and minimum temperatures recorded on each date (and the specific times recorded), as well as the daily average temperature, which is the mean of 96 (typically) temperature data points recorded on that date. These data shall be provided in hard copy as well as workable Excel files in the same monthly table format as they were presented in the PSNH Merrimack Generating Station Environmental Monitoring Program annual reports.

Response to Request 2:

PSNH objects to this request as overly broad and unduly burdensome inasmuch as it seeks the production of data from a period of 21 historical years—years that are no longer representative of current operating conditions at Merrimack Station. PSNH further objects to this request to the extent it seeks the production of data in a particular format or form to the extent the data was not maintained electronically.

Subject to and without waiving the aforementioned objections, enclosed as Attachment B to this correspondence is a hard copy of the temperature pages from the 1984 through 2001 annual reports for Monitoring Stations N-10, S-0, and S-4. PSNH has been unable to locate a hard copy of the temperature pages from the 2001-2002 annual report, but the April and May 2002 temperature data is included in the electronic files specifically created in response to this request.¹

Excel files containing the requested information for the years 2002 through 2015 are included in the enclosed CD, and printouts of this data set are also included in Attachment B.

¹ Hardcopy data from June through October 2001 is all that is missing from PSNH’s submission in response to this request.

Data from 1984 through 2001 was not maintained in the normal course of business and is not available in electronic format. PSNH was unable to create Excel files containing the requested information for the years 1984 through 2001 within the time allotted. The Company did not discover that this historical data was not available in electronic format until its preparation of this response to the 308 Request. Generating the requested electronic files for the years 1984 through 2001 would require a significant amount of time and manpower for little to no benefit. Specifically, approximately 1.26 million data points would need to be entered by hand and then subsequently verified for correctness. This would take approximately three months to complete, at a significant cost (i.e., approximately \$15,000 to \$20,000) to the Company. As explained in more detail in the Enercon and Normandeau report enclosed as Attachment C, data for the period 2002 through 2015 is more representative of actual operating conditions at Merrimack Station.

Request 3:

Using the same data sets presented in the environmental monitoring program annual reports (and submitted in accordance with request #2 above), please calculate the 21-year average of the daily “instantaneous maximums”, daily “instantaneous minimums”, and “daily mean” water temperatures (daily average of the 96 temperature data points for that date) recorded for each day from 1 April to 31 October for the period 1984 -2004 for Monitoring Stations N-10, S-0, and S-4. For example, the maximum temperature (i.e., the “instantaneous” maximum) collected at Monitoring Station S-0 on July 4 of all 21 years from 1984 to 2004 shall be averaged and that value presented in a table under the heading “Average of the Instantaneous Maximum.” This table shall also include columns for the “Average of the Instantaneous Minimum” and “Average for the Daily Mean,” and include a row for each day of the month. A separate table will be generated for each month from April to October for Monitoring Stations N-10, S-0, and S-4. These data shall be presented in degrees Fahrenheit (F°) and provided in hard copy as well as workable Excel files in the same table format used in Appendix A of Normandeau Associate’s April 2007 report, referenced above. Please include an explanation of how the temperature values were calculated for each table so we can confirm they are responsive to this request.

Response to Request 3:

Tables containing the average of the daily “instantaneous maximums,” daily “instantaneous minimums,” and “daily mean” water temperatures at Monitoring Stations N-10, S-0, and S-4 for each day from April through October for the years 2002 through 2015 are included in the enclosed CD. Detailed explanations of how the temperature values were calculated for each enclosed table are provided in the Response to United States Environmental Protection Agency CWA § 308 Letter, prepared by Enercon Services, Inc. and Normandeau Associates, Inc., enclosed herein as Attachment C.

As stated in PSNH’s response to Request 2, water temperature data for the period 1984 through 2001 was not maintained in electronic format, and, as a result, the Company was not able to calculate the 21-year average of the daily “instantaneous maximums,”

daily "instantaneous minimums," and "daily mean" water temperatures for that period within the time provided by the request. Data for the period 2002 through 2015 that the Company has provided is more representative of actual operations at Merrimack Station. If after reviewing the enclosed materials EPA still believes this analysis of the 1984 through 2001 data is necessary, PSNH respectfully requests that you contact me to discuss this matter further.

* * * * *

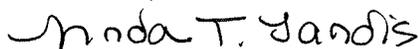
While PSNH has attempted to provide a complete production to each of the requests set out in the 308 Request, PSNH reserves the right to supplement this initial submittal if additional documents or information responsive to the request become known or available to PSNH.

PSNH urges the agency to review the enclosed information and extensive data with care. We firmly believe this data provides clear and convincing support of the Company's 316(a) thermal variance request. Furthermore, and as a result of the implications, the correct interpretation of this data necessitates the issuance of a revised draft NPDES permit. PSNH understands this response to the 308 Request and the enclosed materials will be included in the administrative record for the pending NPDES permit reissuance for Merrimack Station.

For the reasons stated herein, PSNH believes EPA should issue for public notice and comment a new revised draft permit including the agency's corrected CWA § 316(a) analysis and conclusions.

If you have any questions, please feel free to call me.

Sincerely,



Linda T. Landis, Esq.
Senior Counsel
Public Service Company of New Hampshire

Attachments

cc: Mark Stein, Esq., EPA
William H. Smagula, P.E., Vice President-Generation, Eversource Energy
Elizabeth H. Tillotson, Eversource Energy
Allan G. Palmer, Eversource Energy
Spencer M. Taylor, Esq., Balch & Bingham LLP
R. Bruce Barze, Jr., Esq., Balch & Bingham LLP
Robert F. Fowler, Esq., Balch & Bingham LLP
Thomas G. DeLawrence, Esq., Balch & Bingham LLP
Bradley J. Owens, Station Manager, Merrimack Station