THE STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Investigation of Merrimack Station Scrubber Project and Cost Recovery

Docket No. DE 11-250

MEMORANDUM OF PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE ON WASTEWATER PERMITTING ISSUES ASSOCIATED WITH THE SCRUBBER

At the March 12, 2012 hearing on temporary rates in the above-captioned docket, the Commission requested that the parties submit a memorandum addressing whether Public Service Company ("PSNH" or the "Company") has obtained all necessary permits for operation of the wet flue gas desulfurization system at Merrimack Station (the "Scrubber"), including any permits or approvals to indirectly discharge industrial wastewater, prior to any cost recovery on a temporary rate basis.

As explained in detail below, PSNH has all permits and approvals necessary to operate the Scrubber, and the Scrubber is used and useful in the provision of service to the Company's customers. As a result, there should be no delay in the granting of temporary rates on this or any other basis.[1]

The nexus of this issue is the prolonged cross-examination of Company witness Smagula by the Conservation Law Foundation ("CLF"). CLF intimated that PSNH failed to have certain

[1] Contemporaneous with the filing of this Memorandum, PSNH is also filing an Objection to the Dannis' Motion for Disqualification of Commissioner Harrington, in which the Company explains that Commissioner Harrington's future receipt of a pension from Northeast Utilities does not constitute a pecuniary interest which would require his disqualification as a commissioner.

approvals necessary for the indirect disposal of wastewater from the Scrubber system. It is imperative to note at the outset that the only evidence of record regarding the fulfillment of all permitting requirements was proffered by the Company. In its November 10, 2011 progress report filed in Docket No. DE 08-103 and marked as Exhibit 2 in this proceeding, the Company informed the Commission that "[a]s required by RSA 125-O:13, PSNH has obtained all necessary permits to install and now operate the Scrubber." Exhibit 2, p. 12. Further, Company witness Smagula testified that PSNH has obtained all permits and approvals necessary for the operation of the Scrubber system. Neither CLF, nor any other party, submitted any evidence whatsoever regarding this issue. There is no contrary evidence of record rebutting the facts as presented by the Company, and as a result, the temporary rate should be put into effect.

I. BACKGROUND

> The record supports the following facts. This case involves the installation of a wet flue gas desulphurization system (also known as a "scrubber") at Merrimack Station, an electricity generating facility in Bow owned by the appellee, Public Service Company of New Hampshire (PSNH). *See generally Appeal of Stonyfield Farm*, 159 N.H. 227, 228-29 (2009) (discussing scrubber technology at Merrimack Station). **The installation of such a system was mandated by the legislature in 2006.** *See id.*

Appeal of Campaign for Ratepayers' Rights & a., 162 N.H. 245, 247 (2011)[2] (emphasis added)

In 2006, the New Hampshire General Court enacted RSA 125-O:11 *et seq.* based on the legislature's finding that "[i]t is in the public interest to achieve significant reductions in mercury emissions at the coal-burning electric power plants in the state as soon as possible...To accomplish the objective, the best known commercially available technology shall be installed at Merrimack Station no later than July 1, 2013." RSA 125-O:11, I. The requirement to construct

[2] In addition to the Campaign for Ratepayers' Rights, appellants in this Supreme Court appeal included, *inter alia*, the Conservation Law Foundation, Inc. and TransCanada Hydro Northeast, Inc., both of which are parties to the instant proceeding.

the Scrubber is contained in RSA 125-O:13, I which states that PSNH "shall install and have operational scrubber technology to control mercury emissions at Merrimack Units 1 and 2 no later than July 2, 2013." RSA 125-O:12,V defines "scrubber technology" to mean "a wet flue gas desulphurization system."

This legislative mandate to install and operate the Scrubber was premised on findings, which explicitly recognized (1) that the Scrubber was in the public interest, (2) that installation of the Scrubber would bring about a multitude of environmental benefits including reductions in the emission of mercury, reductions in emissions of sulfur dioxide, sulfur trioxide, small particulate matter, and improved visibility, and (3) that the Scrubber should be placed in operation as soon as possible so that these benefits could be achieved. Specifically, the legislative findings included the following:

- "It is in the public interest to achieve significant reductions in mercury emissions at the coal-burning electric power plants in the state as soon as possible. The requirements of this subdivision will prevent, at a minimum, 80 percent of the aggregated mercury content of the coal burned at these plants from being emitted into the air by no later than the year 2013. To accomplish this objective, the best known commercially available technology shall be installed at Merrimack Station no later than July 1, 2013." RSA 125-O:11,I

- "The department of environmental services has determined that the best known commercially available technology is a wet flue gas desulphurization system, hereafter 'scrubber technology,' as it best balances the procurement, installation, operation and plant efficiency costs with the projected reductions in mercury and other pollutants from the flue gas streams of Merrimack Units 1 and 2. Scrubber technology achieves significant emission reduction benefits, including but not limited to, cost effective reductions in sulfur dioxide, sulfur trioxide, small particulate matter, and improved visibility (regional haze). RSA 125-O:11,II

- "To ensure that an ongoing and steadfast effort is made to implement practicable technological or operational solutions to achieve significant mercury reductions prior to the construction and operation of the scrubber technology at Merrimack Station, the owner of the affected coal-burning sources shall work to bring about such early reductions and shall be provided incentives to do so." RSA 125-O:11, IV

- "The installation of such technology is in the public interest of the citizens of New Hampshire and the customers of the affected sources." RSA 125-O:11,VI

To incent the most expeditious installation and operation of the Scrubber, the Legislature enacted RSA 125-O:16, which provides Economic Performance Incentives for mercury reductions which are achieved prior to July 1, 2013. Because the Scrubber was placed into service in September, 2011, the Company will earn these incentives, all of which will inure to the benefit of customers based on the in-service date.

The legislature recognized that in order for the Company to install and operate the Scrubber, it would first need to obtain various permits and approvals to do so. As a result, the legislature made the July 1, 2013 operational deadline for the Scrubber contingent upon the receipt of those approvals. RSA 125-O:13,I, which contains this contingency, states that:

> The owner shall install and have operational scrubber technology to control mercury emissions at Merrimack Units 1 and 2 no later than July 1, 2013. The achievement of this requirement is contingent upon obtaining all necessary permits and approvals from federal , state, and local regulatory agencies and bodies; however, all such regulatory agencies and bodies are encouraged to give due consideration to the general court's finding that the installation and operation of scrubber technology at Merrimack Station is in the public interest...

This clearly provides that the Scrubber must be installed and operational no later than July 1, 2013 *only* if the Company has all of the necessary permits and approvals to do so by that date. Recognizing the importance of meeting this deadline, the legislature included explicit language in the statute urging regulatory agencies and bodies that would be issuing such permits and approvals to give due consideration to the legislature's finding that the Scrubber's construction and operation is in the public interest.

This statutory provision relates solely to the mandatory operational date of the Scrubber system, and not to this Commission's determination whether the Scrubber is indeed in operation

and used-and-useful in the provision of service to PSNH's customers. To this end, the New Hampshire Supreme Court wrote:

> To comply with the Mercury Emissions Program, PSNH must install the scrubber technology and have it operational at Merrimack Station by July 1, 2013. See RSA 125-O:11, I. Meeting "this requirement," however, "is contingent upon obtaining all necessary permits and approvals" from the pertinent regulatory agencies. RSA 125-O:13, I. PSNH must report to the legislature annually regarding its installation of the scrubber technology, including "any updated cost information." RSA 125-O:13, IX. Under RSA 125-O:18, PSNH "shall recover all prudent costs" of installing the scrubber technology "in a manner approved by the [PUC]." Recovery of these costs "shall be ... via ... [PSNH's] default service charge." RSA 125-O:18.

In re Stonyfield Farm, Inc. & a., 159 N.H. 227, 229 (2009).[3]

Nevertheless, as explained in detail below, the Company obtained all the permits and approvals necessary to construct and operate the Scrubber well in advance of the July 1, 2013 deadline. The Scrubber was declared in service on September 28, 2011 and continues to successfully operate in accordance with all permitting and approval requirements. Because all of the traditional requirements for an asset to be placed in service have been met here – that the asset is used and useful providing benefit to the Company's customers, *see infra* – the cost recovery should begin. Thus, Conservation Law Foundation's attempt to tie PSNH's statutory right to cost recovery via temporary rates to the permitting status of the Scrubber is a red herring.

II. ARGUMENT

A. The Company Has All Permits And Approvals Necessary To Operate The Scrubber

There is extensive, uncontroverted evidence in this case that the Company has all permits and approvals necessary to install and operate the Scrubber. Exhibit 4 lists at least 97 permits the Company obtained from federal, state and local entities to construct and operate the Scrubber. In

[3] The Conservation Law Foundation, Inc., Sierra Club, and TransCanada Hydro Northeast, Inc. participated in the *Stonyfield Farm* case as *amicus curiae.*

addition to others, the Company obtained permits from the Federal Aviation Administration, the Environmental Protection Agency ("EPA"), the U.S. Army Corps of Engineers, the New Hampshire Department of Environmental Services, and the Town of Bow. Exhibit 4. These permits range from permission to build the Scrubber's chimney into the airspace, to wetlands permits, to municipal construction permits and certificates of occupancy, to the temporary air permit granted by the New Hampshire Department of Environmental Services. *Id.* In its November 10, 2011 progress report, the Company informed the Commission that "[a]s required by RSA 125-O:13, PSNH has obtained all necessary permits to install and now operate the Scrubber. Construction of the Scrubber began with the issuance of the Temporary Air Permit on March 9, 2009. Numerous other federal, state and local construction permits were obtained including permits from the FAA, EPA, NHDES, and the Town of Bow." Exhibit 2, p. 12.

At the hearing, there was much ado by Conservation Law Foundation ("CLF") regarding whether the Company had the approvals necessary to dispose of wastewater from the Scrubber. As explained in detail below, there is substantial, unrebutted evidence in the record that the Company has all permits and approvals necessary to dispose of scrubber wastewater.

As detailed in exhibits and by Mr. Smagula at the hearing, the Company initially planned to discharge wastewater from the Scrubber into the Merrimack River. This plan had the approval of the NHDES, but required EPA approval as well. However, EPA decided that it would deal with the necessary approval as part of the overall NPDES permit for Merrimack Station - - a process that had already been delayed by EPA for over 14 years, and which would not be finalized and effective for years following any EPA action.

Because the Company was not able to gain timely approval from EPA to do so[4], in order to bring the Scrubber online as soon as possible (which was consistent with the legislative mandate, *see supra* pages 3-4), the Company developed an alternative solution and began processing the wastewater through the primary wastewater treatment system at Merrimack Station, then disposing the treated wastewater at permitted wastewater facilities. Exhibit 7; Transcript of March 12, 2012 Hearing ("Tr.") at 85. Exhibit 2 explains that "[d]ue to EPA's refusal to modify or amend the Station's current water discharge permit, and the indeterminate time until a new permit becomes effective, alternative wastewater disposal arrangements have been made to ensure compliance with the RSA Chapter 125-O requirements. These allow the immediate operation of the Scrubber to reduce air emissions while utilizing well-established industrial wastewater disposal options for the Scrubber wastewater." Exhibit 2, p. 12. Thus, the records on file with the Commission had adequately alleged that the Company had all the permits necessary to operate the Scrubber.

At the hearing, CLF asked a prolonged series of questions regarding the Company's receipt of permits or approvals from DES to dispose of Scrubber wastewater. Mr. Smagula testified repeatedly at the hearing that the Company had filed documents with DES "in support of our being able to take this wastewater to New Hampshire POTWs", Tr. at 75, *see also* Tr. at 77, 81, 82, and 84, and that approvals were granted so that the POTWs could receive the waste. Tr. at 82 ("...I am familiar with the fact that we've done everything we've had to do to appropriately get the approvals that we have in place."). Commissioner Harrington took the issue head-on with Mr. Smagula, asking "So, is it correct to say that you have all necessary

[4] A NPDES permit to discharge Scrubber wastewater into the Merrimack River is not necessary for the operation of the Scrubber at this time because of these other arrangements.

permits and approvals to discharge the wastewater in the way you're currently doing it?" Mr. Smagula responded "Yes." Tr. at 136.

In an effort to bring finality to the issue, the Commission asked that the Company respond to a record request stating whether the Company had sought or obtained the necessary approvals for such disposal. Exhibit 10, which was reserved for this response, provides extensive detail about the Company's approved wastewater disposal options. It explains that on May 11, 2011, the Company submitted an Industrial Wastewater Indirect Discharge Request Application to the New Hampshire Department of Environmental Services (DES) in which it requested "that four separate municipalities (Allenstown, Concord, Hooksett, and Manchester) consider our request to accept treated wastewater from our wet flue gas desulfurization system that is scheduled to become operational in the fourth quarter of this year." Exhibit 10, p. 1. As a result of that Application, the Company received approval from DES to dispose of Scrubber wastewater at those four New Hampshire municipal POTW facilities. The Company also received approval to dispose of Scrubber wastewater to the state-owned DES' Winnipesaukee River Basin Facility in Franklin, as well as at the City of Lowell, Massachusetts' wastewater treatment facility. Exhibit 10 includes the following documents:

> DES Franklin Facility (the Winnipesaukee River Basin Program): (1) Special Agreement – PSNH and WRBP Wastewater Treatment Plant; (2) Industrial Wastewater Indirect Discharge Request (IDR) approval by DES;
>
> Town of Hooksett: (1) Town of Hooksett Hauled Waste Waste Disposal Agreement; (2) Industrial Wastewater Indirect Discharge Request (IDR) approval by DES;
>
> City of Concord: (1) Permit to Discharge Industrial Wastewater Transported Waste; (2) Industrial Wastewater Indirect Discharge Request (IDR) approval by DES;
>
> Town of Allenstown: (1) Allenstown Wastewater Treatment Facility Industrial Discharge Permit – Class 1; (2) Industrial Wastewater Indirect Discharge Request (IDR) approval by DES;

City of Manchester: Trucked Waste Special Agreement. Given the volume of waste approved, no indirect discharge permit from DES was required.

Lowell Regional Wastewater Utility: Interim Discharge Authorization.

Exhibit 10 also explains that the Company has agreements with two privately operated wastewater treatment facilities located outside of New Hampshire.

Based on record evidence, there is no question that the Company has all of the permits and approvals necessary in order to dispose of Scrubber wastewater. While there was much confusion at the hearing about the terminology associated with these documents and whether they were "agreements", "approvals" or "permits", the fact of the matter is that the Company had sought and obtained appropriate permission to dispose of the wastewater, and had informed the Commission of that in its records and books on file. Mr. Smagula explained at the hearing that the Company is not obligated to bring the wastewater to any of these facilities, and in fact, has not brought any wastewater to some of them. Tr. at 69-70. Thus, to argue that each agreement or permit is "required" may be an issue of semantics. Tr. at 122. Indeed, as no permits or approvals are required for disposal at the privately operated wastewater facilities, none of the approvals received by PSNH are strictly necessary or required for operation of the Scrubber.

At the hearing, CLF repeatedly intimated that the Company had not obtained the permits or approvals necessary to operate the Scrubber, and twice moved to dismiss the case on those grounds. When unsuccessful on those grounds, CLF more specifically contended that the Company failed to obtain permits from DES to indirectly discharge Scrubber wastewater at municipal POTW facilities. CLF requested and had marked as Exhibit 6 the DES regulations governing industrial wastewater discharge requests, and contended that the Company did not have the required approvals under these regulations. CLF's counsel was then asked a direct question by Commissioner Harrington, who inquired of CLF "are you asserting then that the

owner of the indirect discharge, in this case Public Service, does not have this permit and is in violation of this rule?" CLF's counsel replied "I don't know." Tr. at 164.[5]

That response from CLF – that it did not know - was, at best, disingenuous. In fact, CLF was well aware that the Company had received the necessary approvals from DES. On or around October 17, 2011, in response to a Right-to-Know Request, CLF received directly from DES a copy of PSNH's May 11, 2011 letter to DES with its Industrial Wastewater Indirect Discharge Request Application. The Right-to-Know response from DES also included the DES' approvals for PSNH's indirect discharge of Scrubber wastewater at the Allenstown, Hooksett and Concord facilities, as well as all of the municipal approvals for each of those POTWs. *See* Exhibit 10, p.1.

Moreover, in January, the Company had provided CLF (and all the other Parties to this proceeding) as part of the discovery process (Q-TECH-008) copies of DES' approval for the Hooksett discharge, the Hooksett Hauled Waste Waste Disposal Agreement, and the City of Concord's Permit to Discharge Industrial Wastewater Transported Waste. Exhibit 10; *see also* Exhibit 5, p.1 ("Further, as we explained in the response to Staff 1-2, PSNH has 'all permits necessary to place the Clean Air Project in service and reduce emissions as mandated by the mercury reduction law.' However, in an effort to be responsive, we provided documents from Hooksett and Concord. We do not believe that the underlying documents regarding wastewater disposal are relevant to temporary rates and have stated as much in our objections to CLF Q-PROD 1-20 and CLF Q-INT 1-11."); Tr. at 70. Thus, throughout his prolonged cross-

[5] Similarly, Chairman Ignatius asked CLF's counsel "You've heard the Company say it has what it believes are the necessary permits. Do you have some basis to believe that that's an inadequate list?" CLF's counsel responded that he did, and then was again asked by the Chairman "And do you have something to rely on that, in your view, is inadequate?" Tr. at 72. At no time did CLF refer to the permits and agreements that it had in its possession. *See* Exhibit 10; *see also* Tr. at 70, where counsel indicated that it had provided representative agreements associated with wastewater discharge to the parties in the docket.

examination, CLF's counsel was well aware that the Company had obtained all the necessary approvals to discharge the Scrubber wastewater.

B. Temporary Rates Should Be Awarded Because The Scrubber Is Used And Useful And Providing Benefits to Customers.

Under RSA 378:27, the Commission may prescribe temporary rates at a level "....sufficient to yield not less than a reasonable return on the cost of the property of the utility used and useful in the public service less accrued depreciation, as shown by the reports of the utility filed with the commission, unless there appears to be reasonable grounds for questioning the figures in such reports." The standard for temporary rates "...is 'less stringent' than the standard for permanent rates, in that temporary rates shall be determined expeditiously, 'without such investigation as might be deemed necessary to a determination of permanent rates.' *See New Eng. Tel. & Tel. Co. v. State*, 95 N.H. 515, 518, 68 A.2d 114, 116 (1949)." *Appeal of Office of Consumer Advocate*, 134 N.H. 651, 661 (1991). Moreover, "'used and useful' is not a rigid concept; rather, it is an elastic one." *LUCC v. Public Serv. Co. of N.H.*, 119 N.H. 332 at 343 (1979), *citing Baltimore Gas & Elec. Co. v. McQuaid*, 220 Md. 373, 379, 152 A.2d 825, 828 (1959). In this case, the Company should be awarded temporary rates because the records on file at the Commission, which have not been reasonably questioned by any party, demonstrate that the Scrubber is used and useful and providing service to the Company's customers.[6]

The Company presented unrebutted testimony on the start-up associated with the Scrubber's operations, explaining how the Scrubber was placed into service and tied into the Company's existing plant. Exhibit 1, p. 4-5. This testimony detailed that as of September 28,

[6] The Company would note that the only other testimony filed in this docket was by Staff witness Steven E. Mullen. In his testimony, Mr. Mullen recommends that the Commission put a temporary rate into effect for the Scrubber based on the temporary rate statute, RSA 378:27. Exhibit 9. Presumably, Mr. Mullen had no concerns about the property being "used and useful" for the purposes of establishing temporary rates under RSA 378:27. Mr. Mullen's testimony acknowledged that the prudence of the investment would be examined during the permanent rate phase of the proceeding. *Id.*, p. 14.

2011, the Scrubber "was in operation performing its desired functions of spraying limestone water into the absorber vessel with appropriate support systems and equipment in operating mode resulting in mercury and sulfur dioxide emission reductions. The unit achieved full load operation by 10:30 PM Sunday night and remained online many days demonstrating the reliable functionality of both the unit and the Scrubber" *Id.*, p. 5; *see also* Exhibit 2., p. 8.

The Company further updated the Commission on November 10, 2011, informing it that the Company had been working with the New Hampshire Department of Environmental Services Air Resources Division on the specification, installation, operations and maintenance, and reporting of new continuous emissions monitors (CEMs). The Report described that "[t]he CEMs "currently show SO_2 reductions of 90% or greater at times with Unit 1 on-line." Exhibit 2, p. 11. At the hearing, the Company provided further verification of the SO_2 reductions achieved by the Scrubber in the form of print-outs from the CEMs monitors, showing SO_2 reductions up to 96%. Exhibit 8, p. 2. This evidence was also uncontroverted.

The ability of the Scrubber to reduce sulfur emissions was expressly relied upon by the legislature when it adopted the Scrubber law. The legislative findings state that "[s]crubber technology achieves significant emission reduction benefits, including but not limited to, cost effective reductions in sulfur dioxide, sulfur trioxide, small particulate matter, and improved visibility (regional haze)." RSA 125-O:11, II. Exhibit 8 further explains that "[a] wet scrubber is a multiple emission reduction system and it reduces many emissions from coal fired power plants including EPA identified Criteria Pollutants and Hazardous Air Pollutants. Specifically, this technology has proven to reduce Particulate Matter, SO_2, lead, mercury, hydrochloric acid (HCl), hydrofluoric acid (HF), arsenic, beryllium, cadmium, chromium, and manganese, from

the flue gas." Exhibit 8, p. 1. There can be no question that customers benefit from all of these reduced emissions and improved environmental conditions.

Mr. Smagula explained at the hearing that there are no federally approved CEMs at this time for mercury. As a result, mercury emissions must be determined by stack testing. Exhibit 2, p. 11. Mr. Smagula testified that such stack testing had already occurred and that the results would be provided when available, but that he had received verbal information on the results of the mercury stack testing and that the indicated "that the collection of mercury from the scrubber was well over 80 percent." Tr. at 95; *see also* Tr. at 120 ("Again, I"ll go back to some of the verbal information that I have been just receiving as a result of the stack tests done by an independent third party, that the mercury removal is over 80 percent."). Mr. Smagula explained that all indications have been that the Scrubber is performing as it was designed, and that he believed that the Scrubber was reducing mercury emissions based on its functionality. Tr. at 97-98.

Regardless of the timing of the mercury results, there is no statutory requirement that mercury reductions be demonstrated prior to placement of the Scrubber plant in service. RSA 125-O:13,II merely provides that "[t]otal mercury emissions from the affected sources shall be at least 80 percent less on an annual basis that the baseline mercury input, as defined in RSA 125-O:12,III, *beginning on July 1, 2013*." (emphasis added). There is no statutory requirement that those reductions occur sooner or that the commencement of cost recovery is contingent on those results. Rather, RSA 125-O:18, governing cost recovery, provides that:

> If the owner is a regulated utility, the owner shall be allowed to recover all prudent costs of complying with the requirements of this subdivision *in a manner approved by the public utilities commission*. During ownership and operation by the regulated utility, such costs shall be recovered via the utility's default service charge. In the event of divestiture of affected sources by the regulated utility, such divestiture and recovery of costs shall be governed by the provisions of RSA 369:B-3-a.

(emphasis added). The statute provides that the Company is entitled to cost recovery for all of its prudent costs of complying with the law; there is no requirement that cost recovery occur only upon proof of a certain level of mercury reductions. In fact, the statute itself recognizes that the mercury reduction requirement will be established "after a period of operation has reliably established a consistent level of mercury removal at or greater than 80 percent." RSA 125-O:11, III. Clearly, the legislature properly anticipated that the Scrubber would be placed into service prior to the achievement of proven, sustained levels of mercury reduction. As a result, cost recovery should begin now because the Company constructed the Scrubber *as it was required to do*. *See Appeal of Campaign for Ratepayers' Rights & a.,* 162 N.H. at 247. That the legislature granted the Commission latitude regarding the manner in which the cost recovery would occur only underscores the Commission authority to approve a temporary rate in an amount and at a time it deems appropriate.

Because all of the traditional requirements for an asset to be placed in service have been met here – that the asset is used and useful providing benefit to the Company's customers – the cost recovery should begin. The Company's books and records on file with the Commission demonstrate that the Scrubber is in service and providing benefits to the Company's customers in reducing SO_2 emissions at a minimum. Thus, there is no dispute that the Scrubber is used and useful in the provision of service to customers. Customers are currently benefiting from cleaner air and lower costs for SO_2 compliance, Exhibit 1 at Attachment RAB-5, p. 2, as a result of the Scrubber's operation, just as the legislature had intended. As a result, it is in the public interest to prescribe temporary rates for this significant investment, which is providing an uncontroverted benefit to the Company's customers.

III. CONCLUSION

The record evidence is uncontroverted that the Company has all necessary permits and approvals to operate the Scrubber and that the Scrubber is in service and used and useful to the Company's customers. As a result, the Commission should grant the Company's request and prescribe temporary rates for the Scrubber effective April 1, 2012.

Respectfully submitted this 19th day of March, 2012.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

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Certificate of Service

I hereby certify that a copy of this Memorandum on Permitting Issue Regarding Scrubber has been served electronically on the persons on the Commission's service list in accordance with Puc 203.11 this 19th day of March, 2012.

_____
Sarah B. Knowlton