

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

**ORDER GRANTING MOTION TO EXTEND TIME PERIOD
AND RESCHEDULE HEARING**

Docket No. 2009-01

**Re: Motion of Campaign for Ratepayers Rights, et. al., for a Declaratory Ruling
Regarding Modifications to Merrimack Station Electric Generating Facility.**

Background

On March 9, 2009, the Campaign for Ratepayers Rights (CRR), Conservation Law Foundation (CLF), Freedom Logistics LLC (FLL), Granite Ridge Energy, LLC (GRE), Halifax-American Energy Company LLC (HAEC), TransCanada Hydro Northeast Inc. (TCHN), and the Union of Concerned Scientists (UCS), (hereinafter collectively referred to as the "Movants") filed a Motion for Declaratory Ruling Regarding Modifications to Merrimack Station Electric Generating Facility (Motion.) On April 1, 2009, Public Service Company of New Hampshire filed an Objection to the Motion (Objection).

The Merrimack Station generating facility ("Merrimack Station") is a 478 MW coal fired electric generating facility owned and operated by Public Service Company of New Hampshire (PSNH) and located in the Town of Bow, in Merrimack County. PSNH is in the process of modifying Merrimack Station by installing a wet flue gas desulphurization system and associated improvements for the purpose of reducing mercury emissions from Merrimack Station (hereinafter referred to as the "Scrubber Project.")

In the Motion, the Movants request the Committee to issue a Declaratory Ruling, pursuant to New Hampshire Code of Administrative Rules Site 203.01 and R.S.A. 541-A: 1, V, finding that the Scrubber Project constitutes a sizable addition to an existing bulk power facility thus necessitating the issuance of a Certificate of Site and Facility under R.S.A. 162-H: 5, II. The Movants also request the Committee to evaluate whether further action should be taken against PSNH for the alleged failure to comply with R.S.A. 162-H.

PSNH has objected to the Motion. PSNH asserts that R.S.A. 125-O eliminates the requirement that PSNH obtain a Certificate of Site and Facility and that R.S.A. 125-O eliminates any need for the Committee to make a Declaratory Ruling as requested by Movants. PSNH also asserts that the Scrubber Project does not constitute a sizable addition within the terms of R.S.A. 162-H: 5.

Procedural History

The Committee convened a public meeting and hearing on May 8, 2009. The public meeting and hearing was recessed to the call of the Chairman to allow the parties sufficient time to present witnesses. The Chairman of the Committee thereafter scheduled the hearing to re-convene on May 22, 2009. Pursuant to NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES Site 203.02 (b), the Committee must rule on a motion for declaratory ruling within 90 days. In this case the deadline for ruling is June 8, 2009.

On May 18, 2009, PSNH filed a Motion to Extend Time Period and to Re-Schedule Hearing. All of the parties in this docket have assented to the relief requested in the motion. The motion seeks an extension of the declaratory ruling deadline for 30 days. The motion also requests that the Committee re-schedule the evidentiary hearing.

The parties represent that an extension of the deadline and re-scheduling of the hearing will assist them in negotiating a possible factual stipulation regarding the scope of the Scrubber Project and permit the parties additional time to prepare legal briefs addressing the legal arguments implicated in this docket.

Order

This docket involves complex factual and legal issues. It is in the public interest that the parties stipulate to as much factual material as possible and that they are permitted to fully brief the complex legal issues in this matter. Therefore,

IT IS HEREBY ORDERED that the Motion to Extend Time Periods and Re-Schedule Hearing is hereby GRANTED; and,

IT IS FURTHER ORDERED that the deadline for issuing a ruling on the Motion for Declaratory Ruling is hereby extended until July 8, 2009; and,

IT IS FURTHER ORDERED that the public hearing shall be re-scheduled for a later date. The parties shall consult with Committee Counsel about future scheduling and the potential factual stipulation.

BY ORDER OF THE NH SITE EVALUATION COMMITTEE, this 19th day of May, 2009.



Thomas S. Burack, Chairman
New Hampshire Site Evaluation Committee