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**TESTIMONY
OF
DAN DOLAN AND SANDI HENNEQUIN**

ON BEHALF OF

NEW ENGLAND POWER GENERATORS ASSOCIATION (NEPGA)

2012– House Bill 1238

HOUSE SCIENCE, TECHNOLOGY AND ENERGY COMMITTEE

February 2, 2012

Good morning and thank you for the opportunity to testify. My name is Dan Dolan and I am the President of the New England Power Generators Association, Inc. (“NEPGA”). With me today is Sandi Hennequin, NEPGA’s Vice President. NEPGA is the largest trade association representing competitive electric generating companies in New England. NEPGA’s members own approximately 27,000 megawatts (MW) of generating capacity in the region, and over 2,700 MW in New Hampshire, or nearly two-thirds of the generating capacity in the state. Our mission is to promote sound energy policies which will further economic development, jobs and balanced environmental policy.

NEPGA’s New Hampshire companies provide power for New Hampshire from a diverse portfolio of plants. Overall, the companies pay nearly \$35 million annually in state and local taxes, while providing over 1,200 well-paying and skilled New Hampshire jobs. Our companies are good corporate neighbors, contributing to the civic and charitable endeavors of their host communities, donating over \$130,000 annually to charitable causes throughout New Hampshire.

NEPGA’s Position

NEPGA strongly supports House Bill 1238 and the completion of electric industry restructuring in New Hampshire. Passage of this bill would complete the sound policy choices made over a decade in this Legislature to restructure the state’s electric industry. Consumers have greatly benefited from competition among generation companies to meet their needs and have been increasingly choosing their own retail electric provider to enjoy the lowest cost supply available. Since moving to a competitive generation market, New England has seen power plants operated more efficiently with costs to maintain, update and further develop those facilities borne by the companies making the investments. In fact since the late 1990s, generation developers have invested billions in new generation facilities providing over 13,000 MW of new clean generation for New England. At the same time, plant unavailability – or the amount of time that plants are not able to run when asked to do so – has decreased from 22 percent to 12 percent. This 45 percent reduction alone has powered an additional 1.96 million homes, without building new power plants.

Despite the many benefits for consumers that have accrued, the current split system in which PSNH keeps much of its generation in the rate-base with costs accruing to rate-payers, while many of those same customers exercise their choice of retail electric supplier, is not sustainable. A dwindling customer base that pays for increasing costs associated with PSNH's generation fleet is not fair to those customers who don't switch nor is it a fiscally viable option for the utility. This split system cannot and should not continue. House Bill 1238 is consistent with prior actions in New Hampshire for Unitil and National Grid as well as with PSNH's sister companies in the rest of New England. Further, it offers the best long-term solution for addressing the significant challenges confronting consumers in New Hampshire that will ultimately bear the burden of paying these costs under the status quo.

At a time when New Hampshire is working hard to retain and attract businesses and jobs in a recovering economy it is absolutely critical that the benefits of a competitive market be realized. All New Hampshire electricity consumers, whether served by a utility or an alternative provider, deserve the best price that the market can produce. This was the original vision for restructuring and continues to be the right choice.

The Status Quo is Not Sustainable

Over a decade ago, policy makers enacted landmark electric restructuring legislation, with the goal of moving from a system of regulated monopolies to a restructured industry, driven by competition and greater consumer choice. Unitil and National Grid (then Granite State Electric) completed this transition by fully exiting the generation business. PSNH divested its interest in Seabrook Station but in 2003, the Legislature decided to pause the transition and allow PSNH to retain its remaining generation assets to use for serving its default service to remaining customers, out of a belief that these plants would serve as a hedge against a volatile market.

This policy choice though has put PSNH on an unsustainable path whereby its rate-base generation costs will continue to rise, with the likely outcome of more customers

leaving PSNH's supply. The fewer customers PSNH has to pay its generation costs, the more each customer must pay and the more the company is put in financial jeopardy. This path is not only risky and costly for consumers, but it is ultimately unnecessary as a vibrant and competitive market exists today to meet the generation supply needs for all New Hampshire consumers. The costs, risks and alternatives facing policymakers contribute to a sense of urgency to change the status quo, as acknowledged by PSNH. The looming costs to PSNH's generation overhangs this entire discussion and is a main driver of this urgency.

In 2003, PSNH advocated investing \$250 million in a scrubber to address mercury issues at its Merrimac coal plant. In accepting this proposal, the Legislature at the time approved the scrubber approach but provided that PSNH would have to pay for the cost through its energy default service charge. As PSNH installed the scrubber, it experienced significant cost overruns, leading to a dramatic increase in the scrubber costs to nearly \$440 million – a 76 percent increase over its original estimates. During hearings at the Public Utility Commission in the customer migration docket (PUC Docket 10-160), PSNH witnesses testified that the impact of adding the scrubber (then estimated at \$450 million) to default service rates would be expected to be 1.1 cents/kwh in the first 12 months, increasing rates from the then 8.68 cents/kwh to 10.12 cents/kwh in 2015. In addition to these looming generation costs, EPA is considering tougher environmental requirements that would impact PSNH's generation assets.

As the ISO-NE concluded in its 2011 Regional System Plan, “such EPA regulations most likely will require some older fossil-fueled generators in New England to make large capital investments to stay in compliance (page 121).” Even existing federal laws may require large capital investments. For example, in September 2011, EPA proposed to update the decades old permit for Merrimack Station by imposing, among other things, limits on discharge of heated water that could require replacement of an outdated cooling system at an estimated cost of nearly \$112 Million. If the permit becomes final this year as EPA has proposed, ratepayers could face further rate increases for a price tag that could exceed the \$112 Million estimate to allow the Bow

plant to continue operating. Clearly existing and potential new costs for its generation fleet are looming. As long as PSNH retains its generation assets, these costs will be recovered by its captive ratepayers who continue to pay to support for rising generation costs while the wholesale electricity market offers a highly competitive alternative.

With PSNH's generation costs trending on this upward trajectory, market conditions continue to make it more attractive for its customers to exercise their right to choose an alternative electric supplier. The lower market price for electricity in New England is directly related to lower natural gas prices, which are anticipated to continue for the foreseeable future. These projected lower prices are directly related to the development of technology that can extract natural gas from nearby shale fields. Our region enjoys the benefits of an abundant supply of clean, low-emitting fossil fuel in close proximity to the population centers of the Northeast. This supply should provide decades of stable electricity prices. As the ISO-NE noted in its 2011 Regional System Plan:

...the region's diversity and expected reliability of natural gas supply has improved. This is the result of the new LNG terminals at Northeast Gateway Deepwater Port, the Canaport import and storage facility, and Neptune Deepwater Port. In addition, new expansion projects on the Iroquois and Tennessee pipelines have been designed to improve the ability to deliver natural gas from the Marcellus Shale basin to the region. (page 99)

Thus the combination of increasing customer migration from PSNH default service, higher existing and looming electric costs for PSNH's generation assets, and a predicted period of stable energy costs in New England, have made the status quo and the current split system an unsustainable path forward for consumers. The PUC rightly rejected PSNH's preferred approach to this problem in its Docket 10-160 Order, noting:

A non bypassable charge is unwise in these circumstances because it does not address the underlying cause of the condition affecting PSNH's remaining energy service customers and it reflect instead an implicit view that PSNH's ownership of

generation assets is an end-state and not a transition, as originally intended.
(page 39)

The Solution – HB 1238

As the PUC states in its Order in Docket 10-160, the one proposal that does address the underlying cause motivating PSNH's request for a non-bypassable charge "***is the divestiture of PSNH's hydro and fossil assets.***" (page 39, emphasis added) To forestall a lengthy adjudicated proceeding over divestiture, the PUC suggested legislative resolution of the issue. The introduction of HB 1238 provides the tool for this legislative resolution and the solution to the underlying causes of PSNH's current unsustainable situation.

It is important to remember that in 2003 when the Legislature decided to delay the divestiture of PSNH's assets, it did not rescind, repeal or change the goal of divestiture, it simply provided that for so long as PSNH continued to own its fossil and hydro plants it would do so in a manner approved by the Commission to provide default service to PSNH customers. During this time, the Legislature adopted a standard for the PUC to determine whether and when the generation assets should be divested – when the Commission finds that the sale of the assets to be in the economic interest of retail customers. Clearly the high level of sustained customer migration from PSNH default service, PSNH's plea for a nonbypassable charge from the PUC and the looming higher costs for PSNH's generation assets suggest that this standard has been met and the time has come for PSNH to divest its generation assets. HB 1238 offers the solution to the serious issues facing PSNH and its customers.

Once PSNH's generation assets would be divested, the company would still be obligated to provide power to customers remaining on default service supply. Just as is done by Unitil and National Grid, this would be done through periodic solicitation processes whereby PSNH would issue a request for proposals (RFP) for power for its default service customers, with wholesale suppliers competing to provide the supply. It is important to note that not only do the other utilities in New Hampshire supply their

customers through this mechanism, but so do most of the other utilities in New England. This includes PSNH's sister companies Connecticut Light and Power and Western Massachusetts Electric Company. Customers of these companies have benefitted from the utilities not owning their generation and being able to secure the lowest cost energy supply from the wholesale market. Today, PSNH's base rates for its residential customers is higher than that paid by the other utilities in New Hampshire or its sister companies – and this is before the temporary scrubber recovery rate is added to customer bills in March 2012:

Utility	Cents per kwh
Western Massachusetts Electric Co.	7.741
National Grid (NH)	7.746
Unitil	8.026
Connecticut Light & Power	8.279
PSNH (without scrubber)	8.31
PSNH (with scrubber on 3/1/12)	9.57

As former Senator Bob Clegg said on March 3, 2003 during legislative debate over whether to delay divestiture , “...if we find that it’s not in the consumers’ best interest to maintain the power plants, than we have PSNH divest them.” PSNH’s Gary Long agreed with this sentiment at the time, noting “if it becomes economic then we go to the PUC and say it is time to do something, time to close the plants down, time to sell them.” Given the high level of migration off of PSNH’s system, the cost of service from PSNH now and going forward, and the continued stable electric pricing anticipated for the near future in New England, the standard for moving forward with divestiture is clearly being met.

This approach is far favorable than the approach rejected by the PUC – imposing a non-bypassable charge on all customers while allowing PSNH to continue to incur excess generation costs. It is also far preferable than the “do nothing” approach, which will only exacerbate today’s problems. Under the “do nothing” approach, the energy service rate

would continue to increase (most notably in March 2012 when the scrubber recovery begins), with more migration of customers to occur and fewer customers left to absorb the rising costs to own these generation assets. Delaying any longer the completion of what the PUC called a “transition” away from utility-owned generation to a competitive model for all consumers would simply continue a fatally flawed structure.

HB 1238 offers a measured, prudent course for the divestiture of PSNH’s assets. The phased -in approach requires PSNH to develop and present a plan for divestiture to the PUC by October 2012. The PUC would then commence a public proceeding to consider, refine and ultimately approve or reject the plan. Once the approval for a plan is given, PSNH would be required to implement the plan by December 2013. This timing and approach is consistent with the approaches used throughout the region when most of the utilities divested their power plants as they transitioned to a restructured electric marketplace. The fixed deadlines in the bill are reasonable and critical to make sure that progress is made and consequences of the status quo of increasing prices and decreasing customers are mitigated.

Benefits to New Hampshire’s Consumers

When New Hampshire policy-makers began the restructuring of the state’s electric market over a decade ago, they were guided by a series of principles including among others customer choice, universal service, benefits for all customers, full and fair competition and near-term rate relief. As the Legislature considers important steps to complete the transition to a fully restructured electric market, it should consider the goal of restructuring as detailed in RSA 374-F:3, XI:

The goal of restructuring is to create competitive markets that are expected to produce lower prices for all consumers than would have been paid under the current regulatory system...To the greatest extent practicable, rates should approach competitive regional electric rates.

HB 1238 provides the necessary step to complete electric restructuring in the state. This will allow the critical benefits of truly competitive electric available to be realized by all consumers in New Hampshire – not just those in Unitil or National Grid’s territory. There are other benefits that would accrue to consumers as well, including:

- ***Shift the Risk of Capital Investment to Investors From Consumers.*** Under the old-style monopoly regulatory model, any capital investment made on a generation asset would be recovered from ratepayers. Cost overruns such as those seen on PSNH’s scrubber project are generally recovered from consumers, not company investors or shareholders. Continuing the status quo would prolong this treatment for PSNH customers. Moving forward with HB 1238 and generation asset divestiture would align PSNH with its sister companies in other states, and the other New Hampshire utilities, and transfer the risk of capital investment in generation to the shareholder and investors of competitive generation owners, not on ratepayers.
- ***Greater Transparency and Accountability of Electric Costs.*** Moving away from a system whereby PSNH uses its own power plants to serve its default service customers allows for greater transparency and accountability. Currently PSNH’s generation assets meet only a portion of its default customers’ needs, requiring PSNH to go in to the wholesale market and make both short- and long-term electric power purchases to meet its customers’ needs. Unfortunately there is no transparency to this process and it is not entirely clear decisions are made to enter into these contracts versus the use of its existing rate-base generation. Moving to the same procurement model as used by the other New Hampshire utilities and PSNH’s sister companies in other states will allow for the necessary transparency in this process and make sure that PSNH customers receive the most competitive default service rate in the market.
- ***Continued Access to Electric Supply Choice.*** A decade ago, the New Hampshire Legislature heard the appeals of businesses and consumers and allowed all customers in the state to choose their electric supplier. Overall, one-third of

electricity sold in PSNH's service territory is from competitive suppliers. If future PSNH costs were to be recovered from all customers through a non-bypassable charge, the availability and incentive for continued electric choice would be significantly limited.

Conclusion

NEPGA strongly supports House Bill 1238 and encourages the Legislature to move forward with this critical bill. As PSNH acknowledged by approaching the PUC in 2010 for a non-bypassable charge, the status quo and its current split system is not sustainable. Nearly two years after PSNH asked for this help from the PUC, more customers have left PSNH, generation costs for PSNH have increased and the market for electricity has led to competitive results for consumers. The standard for moving forward with divestiture – being in the best interest of PSNH's retail customers is being met. The only way to ensure that consumers can not only continue to enjoy electric supply choice and have access to the lowest cost electric supply available is to complete the restructuring of the state's electric market. HB 1238 offers an important tool to complete this path set forth over a decade ago by the Legislature. PSNH affiliates in other states have successfully sold their plants. The other utilities in New Hampshire have exited the generation market as well. Consumers of the other PSNH affiliates and New Hampshire utilities are enjoying lower cost electricity. It is time to provide PSNH's customers the same opportunity.

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