

SECURITIES AND EXCHANGE COMMISSION  
Washington, DC 20549  
AMENDMENT NO. 1  
TO  
FORM U-1  
APPLICATION/DECLARATION WITH RESPECT TO DIVERSIFICATION ACTIVITIES  
UNDER  
THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

NORTHEAST UTILITIES  
WESTERN MASSACHUSETTS ELECTRIC COMPANY  
THE QUINNEHTUK COMPANY  
174 Brush Hill Avenue  
West Springfield, MA 08109

PUBLIC SERVICE COMPANY OF  
NEW HAMPSHIRE  
NORTH ATLANTIC ENERGY  
CORPORATION  
100 Elm Street  
Manchester, NH 03105

NORTHEAST UTILITIES SERVICE COMPANY  
THE CONNECTICUT LIGHT AND POWER COMPANY  
NORTHEAST NUCLEAR ENERGY COMPANY  
THE ROCKY RIVER REALTY COMPANY  
107 Selden Street  
Berlin, CT 06037

NORTH ATLANTIC ENERGY  
SERVICE CORPORATION  
Route 1, Lafayette Road  
Seabrook, NH 03874

(Name of company or companies filing this statement  
and addresses of principal executive offices)

NORTHEAST UTILITIES

(Name of top registered holding company parent of each applicant or  
declarant)

Robert P. Wax, Esq.  
Vice President, Secretary and General Counsel  
Northeast Utilities  
P. O. Box 270  
Hartford, CT 06141-0270  
(Name and address of agent for service)

The Commission is requested to mail signed copies of all orders, notices and  
communications to:

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Berlin, CT 06037

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107 Selden Street  
Berlin, CT 06037

The Application/Declaration in File No. 70-8825 is hereby amended as  
follows:

The first paragraph of Item 1. Description of Proposed Transactions is  
hereby amended as follows:

"1. Authorization to Engage in Diversification Activities

Northeast Utilities, a registered electric utility holding company  
("NU"), Northeast Utilities Service Company ("NUSCO"), North Atlantic Energy  
Corporation ("NAEC"), North Atlantic Energy Service Corporation ("NAESCO"),  
Northeast Nuclear Energy Company ("NNECO"), The Rocky River Realty Company  
("RRR"), The Quinnehtuk Company ("QC") and the principal operating  
utility subsidiaries of NU, The Connecticut Light and Power Company, Public  
Service Company of New Hampshire, and Western Massachusetts Electric Company  
(the "Operating Companies") (NU, NUSCO, NAEC, NAESCO, NNECO, RRR, QC and the  
Operating Companies) are hereinafter collectively called "Applicants") hereby  
request authority to engage in the following diversification activities, to

the extent the following activities are deemed jurisdictional and not regulated by the applicable state commissions as electric utility services, either directly or through one or more special purpose direct or indirect subsidiaries of any Applicant or joint ventures/alliances with other unregulated companies, for nonassociates, including customers of the Operating Companies, and associate companies, or through investments in existing companies engaged in these activities (collectively, "NEWCOs"):

- (A) develop and commercialize electrotechnologies related to energy conservation, storage, conditioning and conversion, energy efficiency, heating/cooling/climate conditioning, waste treatment, greenhouse gas reduction, safety/security systems and similar innovations;
- (B) engage in the sale, leasing or renting, installation, operation and servicing of electric appliances, devices or systems for residential, commercial, governmental and industrial use, to customers of associated and nonassociated utility companies; for example lighting systems, home security or fire alarm systems, power quality devices, energy monitoring systems and other energy conversion, control or storage systems;
- (C) engage in the sale, leasing, installation, operation, financing and servicing of electric utility equipment such as power generating equipment, back-up generators, fuel cells, solar and photovoltaic systems, energy storage systems, motors, engines, drives and controls, windturbines, environmental equipment and other similar equipment, including the ownership and operation of "qualifying facilities" within the meaning of the Public Utility Regulatory Policies Act of 1978 as amended;

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The Commission has previously authorized various investments related to the manufacturing, development and marketing of electrotechnologies. See e.g. Southern Co., Release No. 35-23888 (1985); Entergy Corp., Release No. 35-25718 (1992); Allegheny Power System Inc., Release No. 35-26225 (1995) and General Public Utilities Corp., Release No. 35- 26230 (1995).

The Commission has allowed registered holding companies to engage in the sale and marketing of appliances or other energy-utilizing devices directly or through affiliated companies. See e.g. Engineers Public Service Co., Release No. 35-3796 (1942); CNG Energy Company, Release No. 35-23734 (1985); Consolidated Natural Gas Co., Release No. 35-26234 (1995); and PSI Energy, Inc., Release No. 35-26412 (1995).

These activities are functionally related to the Applicant's core utility operations.

- (D) engage in the production, sale, conversion, and distribution of thermal energy products, such as process steam, heat, hot water, chilled water, ice/"snow", air conditioning, compressed air and similar products; alternative fuels; and renewable energy resources;
- (E) engage in the sale of services (e.g. construction, consulting, maintenance/repair, diagnostics/preventative care, sales/representation services, marketing/distribution services, contract operation, facilities licensing/permitting assistance, safety inspection) or intellectual property (e.g. software, training, data, patents) related to technical, operational, management, administrative, financial, marketing and/or other expertise, developed in the course of utility operations in such areas as power plant, transmission and distribution system engineering, development, design and rehabilitation; construction, maintenance, installation and operation of all types of energy and heating, ventilating and air conditioning equipment; specification, installation and operation of high voltage equipment; fuel procurement, delivery, management and sale; transportation and fleet vehicle management; environmental licensing, testing and remediation; credit and collections management (including billing services); personnel training and development programs and other similar areas;
- (F) own, operate, install or manage fuel procurement, transportation, handling and storage facilities, scrubbers, and resource recovery and waste treatment facilities;
- (G) develop and commercialize technologies or processes which utilize by-products or waste from basic utility operations as an integral component of such technologies or processes;

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The Commission has permitted the acquisition of steam production

facilities inside an industrial site and the development of, and limited investments in, facilities for producing or recovering alternative fuels and energy resources. See e.g. Southern Co., Release No. 35-26185 (1994); Southern Co., Release No. 35-26221 (1982); New England Electric System, Release No. 35-22719 (1995) and Cinergy Corp., Release No. 35-26474 (1996).

The Commission has authorized a number of registered holding companies to engage in the sale of various services. See e.g., Southern Co., Release No. 35-22132 (1981); American Electric Power Co., 35-22468 (1982); Middle South Utilities Inc., Release No. 35-22818 (1983); Cedar Coal Company, Release No. 35-23973 (1985); Entergy Corp., Release No. 35-26322 (1995) and Consolidated Natural Gas Co., Release No. 35-26363 (1995).

The Commission has authorized various investments related to such activities. See e.g., Ohio Power Co., Release No. 35-19594 (1976) (rail-to-barge coal handling facility); Middle South Utilities, Inc., Release No. 35-18221 (1973) (bulk oil storage facilities); Jersey Central Power & Light Co., Release No. 35-24664 (1988) (reservoir, dam and related facilities for storage and discharge of water); and New England Electric System, Release No. 35-26277 (1995) (installation of equipment at power stations owned by nonaffiliates to separate unburned carbon from coal ash).

New England Electric System, Release No. 35-2627 (1995).

- (H) to the extent not provided by "exempt telecommunications companies" associated with the Applicants under the Telecommunications Act of 1996, provide telecommunications service, data acquisition/control systems or distribution/courier services supported primarily by facilities utilizing existing utility structures, equipment and/or rights-of-way, or using excess capacity of systems, property or services originally installed or used primarily for the utility's own use;
- (I) to the extent not otherwise permitted under Rule 40, lend money to, guarantee obligations of, and arrange for financing or finance leases for, customers or potential customers of the Applicants and joint venture partners or allied parties of the Applicants primarily to facilitate investments in programs and/or equipment which will encourage utility load growth through process improvement, increased cost-effectiveness of electric power or any other application of electrotechnologies which provides production efficiencies or other benefits to the customer;
- (J) purchase accounts receivable of associate companies and of nonassociate companies whose primary revenues are derived from the sale of electricity, and of other nonassociate companies, including utility companies, that generate receivables from large numbers of customers, subject to the 50 percent test found in the CSW series of orders;
- (K) engage in sales/representation and marketing/distribution services for insurance programs provided by non-associate companies related to electrical service to customers of the Applicants, including but not limited to utility bill payment protection in the event of unemployment, disability or death; also (provided entirely or in part by associate companies) service contracts for maintenance of electrical appliances or equipment; water heater life insurance and appliance/equipment extended service warranty agreements;
- (L) engage in the development and sale of any product or service directly related to the electric vehicle, hybrid vehicle or transportation market, including infrastructure support, energy storage devices and sales or maintenance of vehicles or their motive power components.

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The Commission has previously approved activities related to communication services. See e.g., Southern Co., Release No. 35-23440 (1984) and Release No. 35-26211 (1994).

The Commission has approved customer and non-customer financing programs. See e.g., Consolidated Natural Gas Co., Release No. 35-26234 (1995); and American Electric Power Company, Release No. 35-26473 (1996).

See e.g. CSW Credit, Inc., Release No. 35-24157 (1986), authorizing financing of subsidiary to provide funds to factor accounts receivable of nonassociate electric utility companies.

The Commission has approved activities related to the development of

electric and gas vehicles. See e.g., Consolidated Natural Gas Co., Release No. 35-25615 (1992); Central Power and Light Co., Release No. 35-26160 (1994) and Columbia Gas System, Inc., Release No. 35-26295 (1995).

- (M) engage in the brokering, marketing, generation, production, transportation, transmission, distribution, storage and sale of energy (including but not limited to electricity or natural or manufactured gas) and "paper products" such as futures, hedges, load aggregations, fuel tolling, fuel conversions and other instruments expected to be required in a competitive energy marketplace (it being understood that at the present time the Applicants will not, without subsequent approval of the Commission, create any new subsidiary or engage in any such activity, except as necessary to meet the requirements of the New Hampshire Public Utilities Commission's 'Pilot Program', as described in Exhibits D.1 and D.2.); and
- (N) sell, rent, lease or operate for the benefit of a third party any surplus physical asset (land, mineral rights, timber, buildings, air rights, equipment, material) originally acquired in good faith for the operation of the utility business, including the right to make any improvements necessary to make such assets marketable in a free-market environment."

Item 6. Exhibits and Financial Statements is hereby amended to add the following exhibits to Item 6(a):

- D.1 Order No. 22,033 dated February 28, 1996 of the New Hampshire Public Utilities Commission in DR 95-250.
- D.2 Order No. 22,081 dated March 29, 1996 of the New Hampshire Public Utilities Commission in DR 95-250.

#### SIGNATURES

Pursuant to the requirements of the Public Utility Holding Company Act of 1935, the undersigned companies have duly caused this statement to be signed on their behalf by the undersigned thereunto duly authorized.

NORTHEAST UTILITIES  
NORTHEAST UTILITIES SERVICE COMPANY  
NORTHEAST NUCLEAR ENERGY COMPANY  
THE ROCKY RIVER REALTY COMPANY  
THE QUINNEHTUK COMPANY  
NORTH ATLANTIC ENERGY SERVICE CORPORATION  
NORTH ATLANTIC ENERGY CORPORATION  
THE CONNECTICUT LIGHT AND POWER COMPANY  
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE  
WESTERN MASSACHUSETTS ELECTRIC COMPANY

By: /s/Jeffrey C. Miller  
Their Attorney

Dated: April 4, 1996

NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DR 95-250

Retail Competition Pilot Program  
Order Establishing Final Guidelines  
and Requiring Compliance Filings

O R D E R N O. 22,033

February 28, 1996

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EXECUTIVE SUMMARY

The New Hampshire Public Utilities Commission (NHPUC) issues the following Final Guidelines (Guidelines) on the Retail Competition Pilot Program (Pilot) mandated by NH RSA 374:26-a which was enacted by the New Hampshire Legislature on June 19, 1995. The full text of the authorizing legislation is attached as Appendix A. This Report is the fourth in a series of reports beginning with Preliminary Guidelines issued October 9, 1995, followed by First Revised Guidelines issued November 20, 1995 and Second Revised Guidelines issued January 23, 1996.

As stated in the Preliminary Guidelines, the purpose of the Pilot is to create a limited experimental program to examine the implications of retail competition in the electric utility industry. The Pilot will be limited in size and duration in order to achieve the objectives of the Pilot while minimizing the

potential financial impact on New Hampshire's electric utilities.

All classes of customers in all areas of the state will be eligible to be selected to participate in the Pilot, although only a small percentage of customers will actually be selected. Competitive suppliers will have access to a minimum of 3% of each electric utility's peak load, for a state-wide total of approximately 50 MW, which will be allocated proportionately among residential, commercial and industrial classes, based on the relative loads of those classes for each utility. The Pilot will commence May 28, 1996 and extend for a period of two years.

Residential and small commercial customers may participate in the Pilot either individually or as part of a "Geographic Area of Choice" (GAC). Individual customers and GACs participating in the Pilot will be selected randomly by their franchised utilities under the oversight of the NHPUC. After customers are selected, the aggregation of customer loads will be permitted to lower entry barriers for small customers.

In order to effectuate retail competition, franchised utilities will be required to file by March 15, 1996 unbundled transmission and distribution tariffs in compliance with these Guidelines as well as charges to recover reasonable incremental administrative costs and recoverable stranded costs. Franchised utilities will not be permitted to impose exit or re-entry fees on participants.

In these Guidelines the NHPUC maintains its position that it has the legal authority under state and federal law to set the rates, terms and conditions for the provision of intrastate transmission and distribution services. The rates for intrastate transmission and distribution services will be based upon the costs currently embedded in each utility's retail rates.

Participating Pilot customers will be responsible for negotiating the purchase of power from competing suppliers. Unless the Commission orders otherwise, franchised utilities which choose to compete in the Pilot may do so by establishing affiliated power marketing companies.

The NHPUC recognizes that stranded cost recovery is the most important and complex issue facing regulators and other policymakers as they seek to introduce competition into retail electric markets. While recognizing that issues related to stranded costs dominate the debate over retail electric competition, there are many other technical and policy issues which warrant examination prior to a transition to full retail competition. We have determined that in the absence of a negotiated resolution which sets the level of recovery for each utility, a fifty-fifty division of stranded costs between participating customers and investors is an equitable starting point. The NHPUC will initiate a separate proceeding in order to examine the stranded cost issue fully as it relates both to the Pilot and to restructuring generally.

The NHPUC will hold hearings on the compliance tariffs April 1-5, 1996. The Pilot will commence on May 28, 1996. The full schedule for the remainder of the proceeding is attached to these Guidelines as Appendix B.

## I. INTRODUCTION

In June 1995, the New Hampshire Legislature directed the NHPUC to establish a pilot program (Pilot) to examine the implications of retail competition in the electric industry, provided that it is found to be "fair, lawful, constitutional, consistent with RSA 378:37 and in the public good". NH RSA 374:26-a, Laws of 1995, Chapter 272, effective January 1, 1996, previously referred to as Senate Bill 168-FN-A, Section 12. See Appendix A.

In response to this mandate, the NHPUC issued Preliminary Guidelines on October 9, 1995, followed by First Revised Guidelines on November 20, 1995 (Note 1). On January 23, 1996, the NHPUC issued Second Revised Guidelines which addressed additional comments submitted by interested parties and the recommendations which emerged from an intensive series of collaborative meetings (the Collaborative) during late December 1995 and early January 1996. Hearings were held on the Second Revised Guidelines January 29, 1996. After considering all of the written comments and those offered at the recent hearings, we issue the following Final

## Guidelines (Guidelines) for the Pilot.

The purpose of these Guidelines is to prescribe how the Pilot will be implemented in order to accomplish the objectives set forth below. Nonetheless, the revised procedural schedule contained in Appendix B provides for a number of joint working meetings with representatives from Staff, franchised utilities and other Pilot participants to discuss technical questions raised by these Guidelines. Franchised utilities will be required to make compliance filings on or before March 15, 1996 and we will conduct hearings on those filings April 1-5, 1996. We anticipate issuing a final order on the compliance filings on April 15, 1996 and direct utilities to commence the Pilot on May 28, 1996.

As stated in our Preliminary Guidelines and reaffirmed in the Revised Guidelines, the Pilot is not necessarily a blueprint for industry restructuring; rather, it should be viewed as an opportunity to examine the implications of and obstacles to competition in retail electric markets. Accordingly, the Pilot is limited in scope, size and duration. For instance, although performance based regulation may be an effective means to regulate certain segments of the industry which remain naturally monopolistic, it is unnecessary to initiate such regulatory reforms in order to implement the Pilot.

We issue these Guidelines with the expectation that stakeholders will take advantage of the opportunity to gain first-hand knowledge of the problems associated with introducing competition into what has previously been a thoroughly regulated industry. We continue to believe that the Pilot should be implemented in a manner which enables policymakers to gather meaningful data without causing an unreasonable financial impact on the state's electric utilities. It is not our intent or purpose to have the Pilot be the battleground for recovery of stranded costs or the future shape of the electric utility industry.

(Note 1) Appendix C lists the organizations which submitted comments on the Preliminary and Revised Guidelines.

For the above reason, the Pilot can not be expected to yield empirical data which will provide easy answers to all of the complex issues associated with the establishment of full retail competition in the electric industry. While some of the information which the Pilot will generate may be anecdotal in nature, the Pilot will provide an opportunity to encounter first-hand many of the realities competitive markets. As with all NHPUC orders or directives, we reserve the right to revisit the issues discussed herein and to make modifications as appropriate during the term of the Pilot.

Finally, we affirm our belief that consensus-building and cooperative approaches should play an important role in any future restructuring of New Hampshire's electric utility industry. Based upon the success of the Pilot collaborative, we believe that such an approach should play a part in resolving the many difficult and challenging issues which could delay the introduction of meaningful competition and lower rates for New Hampshire's citizens and businesses.

## II. PILOT OBJECTIVES

The Pilot's primary objective is to determine whether retail competition in the electric utility industry can promote lower retail rates for all customers without compromising the reliability and safety of the power supply system. Consistent with this view, we have developed these Guidelines in order to test certain fundamental assumptions which underlie the case for retail competition. For instance, the Pilot should provide information regarding the level of demand among different customer classes for competitively supplied electric services and the corresponding level of interest among competitive generators to supply those services. The Pilot should also test whether customers of all classes have sufficient bargaining power to significantly benefit from a deregulated power market. Such information potentially has great value since it may enable a competitor to determine which markets are the most profitable to serve.

Likewise, we view the Pilot as an opportunity to test certain arguments advanced by those who oppose retail competition or question whether the benefits of competition will be shared by all customer classes. Additionally, the Pilot should provide

information relative to the potential financial impact of retail competition on New Hampshire's electric utilities.

Finally, the Pilot will allow the parties to gain experience in a broad range of technical and administrative matters relating to competitive markets including the design and costing of unbundled electric services.

As we stated in our last Report, we have decided that the Pilot is not the appropriate forum to resolve all of the complex economic and legal issues associated with the restructuring of the electric utility industry. Nonetheless, a meaningful Pilot can not be implemented without specifying the initial level of stranded cost recovery. In Section V we define stranded costs and establish a preliminary level of recovery in order to move the Pilot forward. We will address the broad legal and policy arguments associated with the issue of stranded cost recovery for the Pilot and the transition to full competition in a separate proceeding.

### III. LEGAL ISSUES

#### A. Authority to Order Retail Wheeling

In our previous Reports in this proceeding, we set forth the statutory basis for the establishment of a retail electric competition pilot program. The authorizing legislation requires us to establish a pilot program provided that it is found to be "fair, lawful, constitutional, consistent with RSA 378:37 and in the public good". NH RSA 374:26-a. We believe that, if properly implemented by the state's franchised utilities, these Guidelines are consistent with these conditions.

In addition to the express statutory authority to establish the Pilot, we believe that the NHPUC has the existing legal authority to introduce competition into the retail electric markets within this state if we find it to be in the public good. See, NHPUC Order No. 21,683, Re Freedom Electric Company, DE 94-163 (June 6, 1995). Moreover, unlike issues related to retail transmission services, it is undisputed that the FERC has no legal authority to prevent states from ordering retail wheeling. Any disagreement with our position on this issue of state law will be resolved when the New Hampshire Supreme Court issues its decision in the Freedom Electric appeal.

#### B. Stranded Cost Recovery

In our previous Reports relative to the Pilot, we discussed the legal and policy considerations which led to our preliminary conclusion that utilities should not be entitled to 100% recovery of their stranded costs in a transition to retail competition. We continue to hold this view and believe that it is legally justified and premised upon sound public policy. Nevertheless, for the reasons set forth below, our discussions in previous Reports do not represent a final determination of this important and contentious issue.

Not surprisingly, in response to our Preliminary Guidelines relative to this issue, we received comments from stakeholders which reflected either strong opposition or abundant support for our position. Clearly, the issue of stranded cost recovery in a full transition will present significant and complex challenges for policy-makers. In light of the important interests involved in such a debate, the Pilot could be delayed indefinitely if any of the many stakeholders in this proceeding attempted to use it as the forum to set precedent for the eventual restructuring of the industry. After carefully considering our statutory mandate to establish a Pilot which examines the "implications" of retail wheeling, we have elected to reserve our final determinations relative to stranded cost recovery until the conclusion of a separate, generic restructuring proceeding. In that proceeding, we intend to fully explore the legal and policy considerations relative to stranded cost recovery and develop principles which will guide our decisions concerning industry restructuring. For those utilities that participate in the Pilot under the fifty-fifty mechanism, that proceeding will provide an opportunity for the reconciliation of stranded costs and revenues.

#### C. Jurisdiction over Intrastate Transmission

In order for Pilot customers to benefit from competition, it is necessary for competing suppliers to have equal access to

transmission services in order to deliver power supplies to the distribution systems of franchised utilities. While it is clear that states have the requisite jurisdiction to regulate the rates, terms and conditions of distribution services, the jurisdictional boundaries are less clear relative to the transmission component. As noted in our previous Reports, we continue to believe that states maintain exclusive jurisdiction over the rates, terms and conditions of the intrastate transmission, distribution and sale of electric power to retail customers - whether those services are provided in bundled or unbundled form. See, NHPUC Order No. 21,850, Cabletron Systems Inc., and Johnson Controls Inc., DE 95-95 (October 3, 1995).

Although we maintain our position that we have exclusive jurisdiction over intrastate transmission facilities used to provide electric service to retail customers, it is not our intent to allow participants to convert this proceeding into the forum for resolving the national debate over the respective roles of state and federal regulatory agencies. It is unclear at this time how that debate will proceed and the forum in which it will ultimately be decided, but we do not believe that it is either necessary or in the public interest to delay the Pilot until the jurisdictional lines between state and federal regulators are more clearly delineated. This approach is consistent with the one which we have adopted for stranded costs. We intend to explore alternative solutions to this problem with the FERC in order to implement the Pilot without compelling us to assert our authority in this area. We have established voluntary filing guidelines which are designed to encourage such cooperation.

#### D. Filed Rate Doctrine

Several commenters suggest that the NHPUC lacks the authority to deny utilities with FERC-approved purchase power contracts the right to full recovery of power costs shifted to non-participating customers through the application of fuel and purchase power adjustment mechanisms. According to this argument, the "filed rate doctrine" precludes the NHPUC from interfering with the application of adjustment mechanisms. We disagree.

As we stated in the First Revised Guidelines, fuel and purchased power adjustment mechanisms are designed to track variations in power costs, not to insulate utilities from the risk of financial loss resulting an inability to compete. This position is consistent with the original NHPUC policy considerations which approved fuel adjustment mechanisms. See, *In re Public Service Company of New Hampshire*, 31 N.H.P.U.C. Rep. 83 (1949). Similarly, the New Hampshire Supreme Court has observed that the "adjustment clause is a recognized device, most commonly applied to fuel costs, which shortcuts the time lag between changes in cost and the collection of compensation during periods of rapidly changing costs." *Public Service Company of New Hampshire v State of New Hampshire*, 113 N.H. 497, 502 (1973). Thus, it is clear that fuel and purchased power adjustment clauses are intended to provide utilities with an opportunity to adjust rates for fluctuations in power and not as a means to recover revenues lost as a result of fluctuations in demand. While it has been the NHPUC's practice to adjust rates for variations in supply costs and demand, we will not permit costs to be shifted from Pilot participants to non-participants.

We are setting forth our position relative to this issue for purposes of the Pilot. It should not be viewed as our final determination as to how we will treat the uneconomic costs associated with wholesale power contracts in any transition to full competition. As with other issues related to stranded costs, we will investigate this issue fully in the context of a separate restructuring proceeding.

#### E. PSNH Rate Agreement

We reiterate our belief that the Rate Agreement entered into between PSNH and the State of New Hampshire offers PSNH no greater protection from competition than exists for the state's other electric utilities. The basis for our position is set forth in the First Revised Guidelines which we incorporate herein by reference.

#### F. APRA

Similarly, we continue to maintain our belief that NHEC's members may participate in the Pilot without causing NHEC to violate the APRA. As we stated in the First Revised Guidelines, nothing in the APRA prohibits NHEC's members from procuring power supplies from alternative competitive sources in order to participate in the Pilot.

#### IV. UNBUNDLED TRANSMISSION SERVICE

In order to introduce the beneficial forces of competitive markets into the electric utility industry, it is essential to "unbundle" retail electric services. These services consist of three main components: generation, transmission and distribution which have traditionally been provided in bundled form by one service provider. Generation service provides customers with reliable capacity and energy from a utility's own power plants or from generating facilities owned by other utilities. Transmission is the backbone for the delivery of capacity and energy from generation sources to main load centers and most large customers. Distribution involves the delivery of capacity and energy from the transmission network to most small and medium sized customers.

By unbundling the three components of electric service, customers gain access to alternative sources of generation at market prices. Under this scenario, competing suppliers who are located in or outside of the state must utilize the networks of transmission-owning utilities in order to deliver power to the main load centers where transmission interconnects with distribution. Accordingly, the market price of power delivered to main load centers will probably include the costs of such transmission service.

A necessary condition for fair competition in electric generation markets is non-discriminatory transmission access and pricing. In simple terms, this means that all suppliers must have an equal right and opportunity to utilize the transmission network and pay the same rate to wheel power across it. In the absence of such a policy, or a failure by regulators to implement it, transmission-owning utilities would adopt restrictive transmission practices which would distort the workings of the bulk power market and unfairly increase the value of their excess generation resources.

In light of our intention to resolve the jurisdictional problem cooperatively, we request that our jurisdictional utilities voluntarily file retail transmission tariffs both at the FERC and the NHPUC. Such tariffs shall be non-discriminatory and shall be available to competing suppliers on the same terms and conditions which the utility extends to itself. To the extent that the FERC requires approval of those tariffs before they are made available to competing suppliers, we ask that the utilities seek the FERC's expedited approval.

#### V. STRANDED COST RECOVERY

As we stated above, we intend to investigate the issue of stranded cost recovery generically and within a separate proceeding which relates to industry restructuring. Nevertheless, as a practical matter utilities will need some guidance on this issue in order to develop unbundled rates which provide customers the necessary incentives to participate in the Pilot. Such guidance must begin with a definition of stranded costs.

##### A. Definition of Stranded Costs

Stranded costs can be calculated in several ways, some of which are more complex than others. For the purposes of the Pilot, stranded costs will be defined and calculated by projecting the difference between the revenue which a utility would have had an opportunity to collect at current rates, in the absence of the Pilot, and the revenue which the utility expects to collect during the term of the Pilot, including projected revenue from power sales at market prices and from transmission and distribution services. The assumed market prices to be used in these calculations will be issued following our consideration of the recently filed Joint Recommendation between PSNH and the Staff. This definition means that a cost already on the books but not approved for ratemaking purposes during the term of the Pilot will not qualify as a stranded cost. In this calculation, no adjustment is made for variable cost savings associated with lost load since we assume

that a franchised utility or its power marketing affiliate will continue to sell to its Pilot customers at prevailing market rates.

#### B. Stranded Cost Recovery

After estimating the magnitude of stranded costs, the next step is to set the level of recovery for the purposes of developing unbundled rates. We have determined that in the absence of a negotiated resolution which sets the level of recovery for each utility, a fifty-fifty division of stranded costs between participating customers and investors is an equitable starting point. The participating customers' share of these costs shall be recovered via a usage-based surcharge on distribution service during the term of the Pilot.

#### C. Separate Stranded Cost Docket

As stated in the First Revised Guidelines, we expressed our intent to open a separate docket to determine on a utility-specific basis the appropriate level of stranded cost recovery. As set forth above, utilities which fail to submit or receive approval of an alternative stranded cost recovery mechanism are required to develop unbundled rates which recover 50% of their stranded costs. In order to minimize price uncertainty for participating customers, the difference, if any, between the initial 50% recovery level and the level ultimately found to be appropriate shall be shared among all customers.

#### D. Mitigation Issues

We expect significant and aggressive efforts to mitigate above market costs during the Pilot and in any transition to full competition. We recognize, however, that costs incurred by a utility in the process of mitigating strandable costs must receive different treatment. We believe the appropriate way to address such costs is on a project specific basis. Along these lines, full recovery of power costs associated with any small power producer agreements which are subject to RSA 362-A:4-b shall be contingent upon the outcome of our ongoing inquiry into those arrangements.

### VI. RATES FOR UNBUNDLED SERVICES

As noted above, in order to allow customers to benefit from the forces of competitive markets, franchised utilities must unbundle retail electric services. While some argue that unbundling should simply be the functional separation of generation from the remaining industry functions, we believe that approach would result in the loss of valuable information regarding the cost structures of jurisdictional utilities. We will require utilities to disaggregate their bundled retail services into the following minimum functions: customer service, transmission, distribution, C&LM and power supply. The power supply function should be further disaggregated into a market price component and a stranded cost component that reflects the extent to which a utility's generation resources are uneconomic. The overriding policy objectives governing this unbundling are: (i) the provision of accurate market price signals for power supply services; (ii) nondiscriminatory transmission and distribution access and pricing; and (iii) the avoidance of cost shifting among classes or among customers within a class.

Because transmission and distribution, and to a lesser degree customer service, continue to exhibit natural monopoly characteristics, these rates should be based on cost rather than the value of those services in the open market. We will require an embedded cost approach to pricing customer service, transmission, distribution and C&LM. Rather than update embedded costs to a recent test year, the rates for such services shall reflect the embedded costs in existing bundled retail rates. While this approach results in embedded costs of different vintages, it levels the playing field by ensuring that unbundled and bundled service customers in the same franchised area and class pay the same rates for equivalent services. Finally, while the costs embedded in existing bundled rates will be used as the basis of unbundled rates for the Pilot, utilities will be permitted to revise those rates during the life of the Pilot provided they are successful in gaining rate relief in a general base rate case.

Because the purpose of the Pilot program is to obtain information to help determine whether retail competition is in the public interest, we will require that reasonable incremental costs

incurred as a result of the Pilot be recovered from all customers rather than participating customers alone.

## VII. RESPONSIBILITIES OF PILOT CUSTOMERS

Under retail competition, customers will have increased opportunities to lower their power costs by selecting among competing power suppliers. However, commensurate with the opportunity for lower costs, customers also will assume full responsibility and risk for the consequences of their choices. For example, power may be offered as a discrete commodity without transmission and distribution deliverability, at an apparent low cost. However, under this option, customers must also secure and pay additional amounts for the delivery of that commodity over transmission and distribution systems. The aggregate cost and reliability of the delivered commodity will be the customers' responsibility.

To avoid some of the decisions and risks involved in acquiring unbundled generation, transmission, and distribution services, customers may opt to purchase generation, transmission, and distribution services as a package from a single broker, marketer or aggregator.

Under either approach, it is essential to recognize that the customer bears all financial and reliability risk. As each customer addresses the decision to secure resources from alternate suppliers, the customer must develop a strong understanding of his economic decision-making function, including an understanding of all needs, costs and risks.

Based upon these considerations, any customer selected to participate in the Pilot will be responsible for the following:

### A. Negotiation for Supply of Electric Power

The negotiation of a competitive supply of electric power may be done directly by the customer or through an energy broker, marketer or other agent. Electricity may also be purchased from a power marketer affiliated with a franchised utility. The customer will pay for electric power at the negotiated price. The NHPUC will not set or approve that price.

### B. Back-Up and Emergency Service

Because of the requirement that competitive suppliers either be NEPOOL members or contract with members for back-up bulk power service, there is no need for Pilot customers to purchase, and utilities to offer, back-up and emergency services. Those services will be bundled in firm power supplies purchased from competitive suppliers.

### C. Negotiation and Payment for Delivery of Power

Pilot customers their representatives must negotiate with competitive suppliers for the delivery of electric power. Out-of-state power supplies will be transmitted to the New Hampshire border under FERC-approved transmission rates. Transmission and distribution within New Hampshire will be conducted under tariffs approved by both the FERC and the NHPUC.

## VIII. PILOT DESIGN

### A. Size and Duration

1. Franchised utilities under our jurisdiction shall permit competitive suppliers non-discriminatory access to 3% of their 1994 peak retail load for purposes of the Pilot. This load shall be distributed among the classes in approximate proportion to the estimated peak load for each class including load served under approved special contracts.

2. Any franchised utility seeking to designate a larger percentage of load for the Pilot may make such a request in its March, 15, 1996 compliance filing.

3. In addition to the 3% of existing load, competitive suppliers will also be permitted to access the loads of new large commercial and industrial customers. New large commercial and industrial customers are customers who locate in a franchised utility's serviceterritory on or after March 1, 1996 and who would

otherwise be served under the applicable rate schedules listed in Appendix D. Large commercial and industrial customers switching from one New Hampshire service territory to another are not eligible to participate in the Pilot under the new load category.

4. The approximate existing or old load to be allocated to the Pilot for each franchised utility is as follows:

Concord Electric Company	2.75 MW
Connecticut Valley Electric Company	0.86 MW
Exeter and Hampton Electric Company	3.00 MW
Granite State Electric Company	3.75 MW
New Hampshire Electric Cooperative	5.25 MW
Public Service Company of New Hampshire	35.13 MW
Total	50.74 MW

5. The Pilot shall be implemented on May 28, 1996 and shall extend for a period of two years from the date of implementation, unless further ordered by the NHPUC.

6. At the conclusion of the Pilot, all negotiated terms and rates with competitive suppliers shall terminate.

#### B. Customer Selection

The following guidelines shall control how customers will be selected to participate in the Pilot.

##### Individual Selection

1. Consistent with RSA 374:26-a, customers in all electric utility franchised areas and in all classes shall be eligible to be considered for participation in the Pilot, unless they are contractually prohibited from doing so as explained below.

2. Customers with existing contractual obligations to franchised utilities may participate in the Pilot only if by doing so they will not violate their obligations under such contracts, or if they are able to renegotiate the terms of those contracts. Those contracts fall into the category of "special contracts" and contracts associated with approved C&LM programs.

3. Individual customers who wish to participate in the Pilot must first express this interest to their franchised utility. All eligible customers should be afforded an opportunity to express such an interest before the actual participants are selected. Although we are inclined to require interested customers to submit some form of written expression of interest to their franchised utility, we are cognizant of the potentially high administrative costs associated with such a process. Accordingly, we will entertain specific proposals from each utility relative to this aspect of the selection process. We strongly encourage utilities to expeditiously submit their preferred methods for customers to apply for participation in the Pilot.

4. The selection of individual participating customers shall be conducted by each utility under the oversight of the NHPUC Staff. We will not specify how customers should be selected, although we have stated in previous Reports that the process must be fair and random. Once a sufficient number of customers has been selected to fill the requisite 3% load requirement, utilities shall be under no further obligation to select additional customers in the event that customers who are initially selected continue to take bundled service.

5. The customers of municipal electric utilities may participate in the Pilot provided that their utility provides access by developing unbundled rates. A participating municipal electric utility means a non-jurisdictional New Hampshire utility which currently provides bundled retail electric service and which voluntarily allows its customers to participate in the Pilot. If any such municipal utility elects to facilitate the participation of its customers in the Pilot, it must agree to develop non-discriminatory transmission and distribution services.

##### Group Selection

6. Approximately one half of the existing residential and small commercial customer load earmarked for the Pilot shall be eligible to participate in the Pilot through Geographic Areas of Choice (GACs). GACs are defined as groups of residential and small commercial customers within a defined geographic area.

7. GACs should be nominated by an appropriate government authority.

8. In order for a GAC to be considered for selection, there must be a written expression of interest submitted to the franchised utility which currently serves the geographic area by a date to be determined by the NHPUC. The written expression of interest must include the following information:

- location and geographic boundaries of proposed GAC
- estimated aggregate load of the GAC, broken down by customer class;
- demographic profile of the GAC;
- number of potential participating customers by class

9. The selection of GACs shall be conducted in a random and fair manner from a pool of volunteer GACs. As with individual selection, utilities should expeditiously submit their preferred methods for GACs to apply for participation in the Pilot. The minimum number of GACs per franchised utility are as follows:

Connecticut Valley Electric	- 1
Concord & Exeter Electric	- 1
Granite State Electric	- 1
New Hampshire Electric Coop	- 2
Public Service of New Hampshire	- 4

#### C. Supplier Eligibility

1. The potential array of suppliers who are eligible to participate in the Pilot include generators, aggregators, marketers and brokers who seek to supply electricity directly or indirectly to participating customers. Such suppliers may include exempt wholesale generators, qualifying facilities, non-jurisdictional utilities, jurisdictional utility marketing affiliates and non-affiliated power marketers, all located both within and outside the State of New Hampshire.

2. Competitive suppliers must obtain NEPOOL membership or contract with a NEPOOL member in order to participate in the Pilot. This requirement will ensure that competitive suppliers with firm load obligations have adequate power supply resources to meet both their firm load and their apportioned share of the NEPOOL required reserves. This requirement will also ensure that competitive suppliers will gain access to NEPOOL scheduled and unscheduled outage service.

3. Competitive suppliers are eligible to participate in the Pilot only after registering with the NHPUC. Such suppliers must include the following information in their registration:

- (a) Name, business organization, principle place of business, and registered New Hampshire agent;
- (b) Evidence of eligibility to conduct business in New Hampshire;
- (c) Evidence that supplier has obtained NEPOOL membership or has contracted with a NEPOOL member for back-up power supply service.

Only after receiving confirmation of the receipt of such information from the NHPUC may competing suppliers transact to sell power to participating customers.

#### D. Load Aggregation

1. Pilot participants shall be allowed to aggregate their loads only for the purpose of negotiating the purchase of power from competitive suppliers.

2. Given its unique circumstances, we will allow NHEC's management to perform the role of a load aggregator/supply negotiator on behalf of member participants who request this service.

#### E. Usage and Other Customer Data

To develop winning marketing strategies, competing

suppliers must obtain good information about the needs and usage patterns of customers. The following guidelines will govern the release by franchised utilities of customer-specific load and usage data to competitive suppliers.

1. Authorization must be obtained before customer-specific load and usage data is made available to competitors. The nature of the required authorization will differ depending upon the selection process used.

- Random individual selection - Authorization to release load and usage data is assumed to be given when a customer is selected to participate in the Pilot unless the customer indicates otherwise in writing to its franchised utility. In that instance, the customer's name and address will be released to competitive suppliers but only the participant will receive his or her usage data.

- GAC selection - Authorization is automatically given to release the names and addresses of customers located within the boundaries of a chosen GAC. The availability of all other information shall be subject to customer explicit authorization.

2. Customer-specific load and usage data released by a franchised utility shall include:

(i) Customer's name, billing address, and location (if different).

(ii) The customer's kWh and kW (if applicable) consumption history which is readily available on the franchised utility's computer system.

(iii) Load management or other equipment (if any) installed at customer's location.

3. Data for a prescribed area may be obtained from the franchised utility upon request. Such data may include:

(i) Number of customers by class.

(ii) Typical load shapes.

(iii) Approximate kWh sales and kW load.

4. The incremental cost of producing and communicating customer specific or area specific data may be recovered from competitive suppliers through NHPUC approved charges.

#### F. Metering

1. In order to avoid the expense of installing hourly recording meters for the Pilot we will allow participating customers to utilize currently installed equipment. Bills for transmission, distribution and power supply services should be calculated based on monthly metering data.

2. Franchised utilities will be required to estimate the hourly loads of Pilot customers using load profiles for the relevant customer class, and shall make this information available to competing suppliers. A description of how one utility currently proposes to use load profiles to estimate hourly loads is contained for informational purposes in Appendix E.

3. Franchised utilities will be responsible for meter reading and transferring data expeditiously to competitive power suppliers.

4. Franchised utilities may levy separate NHPUC approved charges to recover reasonable incremental metering and data transfer costs not provided for in unbundled rates.

5. Franchised utilities may separately bill a competitive supplier for additional metering and communications expenses associated with the use of more sophisticated metering equipment requested by supplier.

6. Although we are not requiring the installation of hourly metering as a condition for participation in the Pilot, in order to assess the accuracy of load estimates, we direct the franchised utilities to cooperate in a collective effort to install the necessary metering and communications equipment to provide statistically valid hourly load data.

#### G. Billing

1. Competitive suppliers have the option to bill separately for power supply services.

2. Franchised utilities may provide billing services to competitive suppliers if they so desire. If a franchised utility provides billing services to an affiliate power marketer, it must also offer the same or comparable services to non-affiliated competitive suppliers.

3. If a franchised utility provides billing services, the charge for such services shall not exceed the incremental costs incurred.

4. Any bill submitted to a Pilot participant shall include the supplier's name, phone number, and business address.

#### H. Ancillary Services

Ancillary services are services which may or may not be necessary for the reliable and safe delivery of power from competing suppliers, including but not limited to, voltage control, operating reserves, and power factor adjustment.

1. Because of the requirement that competitive suppliers must be members of or contract with members of NEPOOL, generation-related ancillary services such as voltage and frequency control and operating reserves will be supplied at the bulk power level and the costs recovered through power supply prices. Consequently, we will not require franchised utilities to offer unbundled generation-related ancillary services.

2. To the extent that there are ancillary services related to the transmission and distribution functions, these services will continue to be provided in a bundled form by the operators of the transmission and distribution systems.

3. Unbundled charges for generation, transmission or distribution related ancillary charges will not be permitted during the term of the Pilot unless already provided under generally available tariffs.

#### I. Responsibilities of Pilot Customers and Franchised Utilities

1. It shall be the responsibility of Pilot customers to negotiate with competing suppliers and other service providers. A franchised utility shall not interfere with the negotiations between Pilot customers and competing suppliers, but it shall be permitted to compete in the Pilot on the condition that it establish an affiliate company for that purpose. Although this requirement will ensure that appropriate inter-affiliate pricing arrangements are instituted for the sale of goods and services by jurisdictional utilities, we recognize that it does nothing to curb possible anti-competitive abuses by non-jurisdictional utilities. We anticipate that other regulators, both state and federal, will exercise their authority to prevent market abuses. That limitation notwithstanding, the requirement is consistent with our position that franchised utilities must aggressively mitigate their stranded costs since revenues received from the sale of utility goods and services can be applied against such costs. The guidelines governing the pricing of inter-affiliate transactions are detailed in Section VIII(L) of these Guidelines.

#### J. Rates and Charges

1. A utility shall not impose an exit fee on Pilot customers and shall not impose a re-entry fee when those customers return either during or at the termination of the Pilot. Reasonable incremental costs, approved by the NHPUC, which are directly related to serving Pilot customers may be recovered from participants.

2. Rates for unbundled services, calculated in accordance with Section VI of these Guidelines, shall be submitted for NHPUC approval. Workpapers shall be presented identifying by account number the embedded costs allocated to each service for each customer class and the corresponding billing determinants used in the development of rates.

3. While transmission and distribution charges shall be based on individual rather than aggregated customer loads, such charges may be collectively billed to an agent authorized to act on behalf of an aggregated group of customers.

4. A utility shall be entitled to levy a surcharge on all customers to recover reasonable administrative costs, approved by the NHPUC, associated with the establishment and implementation of the Pilot.

5. To the extent that a utility believes that it will incur stranded costs as a result of the Pilot, it may seek recovery of those costs consistent with Section V of these Guidelines. That is, prior to the implementation of the Pilot, the utility shall estimate for each rate class its projected stranded costs and, based on those estimates, develop usage-based, stranded cost charges that recover from participating customers 50% of those costs. The assumed market prices to be used in the calculation of stranded costs will be issued following our consideration of the recently filed Joint Recommendation and Staff.

6. Franchised utilities offering billing services in accordance with Section VIII(G) of these Guidelines shall submit for approval applicable rates and terms and conditions.

#### K. Customer Protection

1. Existing rules designed to protect customers who receive bundled electric services shall continue to apply, where appropriate, to unbundled transmission and distribution services offered by franchised utilities.

2. Existing rules relating to the winter termination of certain residential customers shall be applied to all competitive suppliers in the Pilot.

3. The resources of the NHPUC will be available to resolve disputes between customers, utilities and competitive suppliers.

#### L. Pricing of Inter-affiliate Transactions

We are indifferent as to the effect affiliated agreements have on utility affiliates. Our interest and concern extends only to the effect these agreements have on franchised utilities and their customers. The most common approaches to pricing affiliate transactions are: (a) transfer at cost where cost is defined to include an allowance for a return on capital; (b) transfer at the market rate; and (c) a multiple of cost. All these approaches recognize that affiliates, whether regulated or non-regulated, must conduct their affairs in a businesslike manner and should have an opportunity to earn a fair profit for services provided.

This basic business principle must be reflected in the pricing of any inter-affiliate transaction. Transactions which take place at out of pocket cost violate this principle. Transactions at out-of-pocket cost may be adequate for transactions between divisions or cost centers of the same company but not between independent companies supposedly engaged in arms length negotiations.

We will require that the pricing of inter-affiliate transactions be free of all subsidies. Goods and services traded in competitive markets, such as power supply, will be priced at fair market value. For goods and services purchased from the franchised utility or an affiliated service company, such as internal accounting, preparation of records, financial services, data processing, legal advice, and wages and salaries of employees assigned to Pilot activities, prices shall be set on a cost plus basis including administrative and general overhead.

In order to verify compliance with this guideline, franchised utilities shall file pursuant to RSA 366:3 affiliate agreements which specify in detail the goods and services to be

provided and the related pricing provisions. Such agreements shall be submitted no later than March 15, 1996.

#### IX. MONITORING AND EVALUATION

1. The NHPUC will monitor the progress of the Pilot and evaluate the development of competitive retail electric markets.

2. In connection with this monitoring process, franchised utilities, competing suppliers and Pilot customers shall make certain information available to the NHPUC. Such information, which we detail below, shall be accorded confidential treatment as appropriate under RSA 91-A, New Hampshire's Right to Know Law.

3. Franchised utilities shall report by class the number of customers and customer groups that request to participate in the Pilot. The names and addresses of customers actually selected, including those within participating GACs, shall be provided to the NHPUC no later than May 1, 1996.

4. Franchised utilities shall record all expenses which relate to the Pilot in separate accounts and shall submit monthly reports to the NHPUC which itemize these expenses. These reports shall also include by class the number of participating customers, monthly kWh and kW sales and associated unbundled revenue based on approved tariffs. Additional revenue related to the provision of metering, billing or data processing services, to recover approved administrative costs, or for goods and services sold to power marketing affiliates shall be separately identified.

5. Franchised utilities subject to the NHPUC's fifty-fifty stranded cost sharing mechanism shall calculate actual net lost revenues by class and submit monthly reports summarizing that information.

6. Competitive power suppliers, including power marketing affiliates, shall file quarterly reports detailing by customer account number the prices and quantities associated with each transaction. To the extent that a customer makes more than one power purchase during a reporting period, the price and quantity data for that customer shall be provided on an average or aggregate basis. In addition, in order to verify the reasonableness of inter-affiliate power supply transactions, franchised utilities shall file each month a quantity-weighted average wholesale price for short-term sales and purchases. Short-term transactions are defined as a month or less in duration.

7. We will also require franchised utilities to analyze the customer load data from the sample of participants fitted with hourly recording meters and report their findings in semi-annual reports.

8. Information about competitive power suppliers will be publicly available through the Pilot registration process.

#### X. COMPLIANCE FILINGS

1. Pursuant to these Guidelines, franchised utilities shall file compliance tariffs incorporating unbundled rates and general terms and conditions for customer, distribution and transmission services. The compliance filings must also specify or contain the following:

- (a) workpapers supporting 3% retail load requirement;
- (b) breakdown of 3% retail load requirement by rate class and by individual/GAC participation;
- (c) adjustments to fuel and purchase power adjustment mechanisms to ensure non-participating customers are not burdened with un-recovered power costs;
- (d) workpapers supporting unbundled rates;
- (e) method of estimating hourly loads for NEPOOL billing purposes;
- (f) time period to transfer metering data to competitive suppliers;
- (g) miscellaneous charges and associated workpapers relating to billing, data processing and transfer, and administrative services;
- (h) pricing arrangements for power and non-power related goods and services transacted between franchised utilities and affiliated companies;
- (i) plans to install hourly load meters for state-wide

sample.

Based upon the foregoing, it is hereby

ORDERED, that the foregoing Final Guidelines are APPROVED;

FURTHER ORDERED, that all New Hampshire electric utilities shall implement a retail electric pilot program consistent with these Final Guidelines unless alternative proposals are approved by this Commission; and it is

FURTHER ORDERED, that all New Hampshire electric utilities shall file compliance tariffs and all other information described in Section X on or before March 15, 1996; and it is

FURTHER ORDERED, that for the purposes of making the above-described compliance filings, Granite State, CVEC and PSNH shall file tariffs consistent with their recommended unbundled rates pending our consideration of the Joint Recommendation filed by PSNH.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of February, 1996.

/s/Douglas L. Patch            /s/Bruce B. Ellsworth   /s/Susan S. Geiger  
Chairman                    Commissioner            Commissioner

Attested by:  
/s/Claire D. DiCicco  
Assistant Secretary

#### APPENDIX A

New Hampshire Revised Statutes Annotated (RSA) 374:26-a, mandating creation of a pilot program, provides as follows:

374:26-a Retail Competition Pilot Program. The commission shall establish a pilot program, under such terms and conditions as the commission shall deem appropriate, for the purpose of determining the implications of retail competition in the electric industry, provided that the commission determines that such program is fair, lawful, constitutional, consistent with RSA 378:37 and in the public good. This pilot program shall be open to all franchised areas and to all classes of customers.

#### APPENDIX B Procedural Schedule for Implementing Final Guidelines

Final Guidelines	February 28, 1996
Compliance Filings	March 15, 1996
Technical Sessions	March 18-29, 1996
Hearings on Pilot Implementation	April 1-5, 1996
Final Commission Report	April 15, 1996
Pilot Commencement	May 28, 1996

#### APPENDIX C The following organizations submitted written comments on the Preliminary and Revised Guidelines:

Associated Power Services Inc., Business and Industry Association of New Hampshire, Cabletron Systems Inc., Central Illinois Light Company, Connecticut Valley Electric Company, Conservation Law Foundation, Office of Consumer Advocate, City of Dover, EnerDev, Inc., The Flatley Company, Freedom Energy Company, Funspot, Granite State Electric Company, Granite State Hydropower Association, Great Bay Power Corporation, KCS Power Marketing, Inc., Rep. Jeffrey C. MacGillivray, City of Manchester, New England Cogeneration Association, New Hampshire Charitable Foundation, New Hampshire Community Action Program, New Hampshire Department of Environmental Services, New Hampshire Electric Cooperative, Inc., New Hampshire Energy Management, Public Service Company of New Hampshire, George E. Sansoucy, Save Our Homes Organization, Suncook Energy Corporation, Sweetheart Cup Company Inc., UNITIL System Companies, UtiliCorp United Inc., Wheelled Electric Power Company, and Certain Wood-Fired Qfs. In addition, several residential customers filed comments.

#### APPENDIX D

## New Load Criteria

Large commercial and industrial customers who locate in a franchised utility's service territory on or after March 1, 1996 and who would otherwise be served under the following rate schedules may participate in the Pilot.

Concord Electric Company - G1, G2, G4, QRWH and Off-Peak WH  
Connecticut Valley Electric - GV, and G-T  
Exeter & Hampton Electric - G1, G2, G4, QRWH and Off-Peak WH  
Granite State Electric - G1, T and V  
New Hampshire Electric Coop - G, PG, PGI  
Public Service of New Hampshire - GV, LG

## APPENDIX E

### Determination Of Hourly Loads For NEPOOL Billing

In the event that hourly recording meters are uneconomic or cannot be installed prior to the initiation of the Pilot, existing meters may be utilized and the hourly loads calculated in the following manner:

Supplier shall be required to include the load at each account it serves, including losses, in its own-load dispatch at NEPOOL. The reporting of loads for own-load dispatch purposes will be accomplished by the following:

1) Each account will be assigned to a customer class. A customer class would consist of a group of customers with similar load shape characteristics.

2) Each customer class will have an assigned load profile which is based on historical load profile data for customers in the class. For the Pilot, this load profile will be approved for its accuracy by the NHPUC.

The load profile for each class shall consist of 24 separate profiles which represent average hourly load profiles for typical day types of the week for each month of the year (e.g, average weekdays in March).

3) Each account will be assigned a Usage Factor which represents the relative usage of the account versus the customer class. The Usage Factor would equal the quotient of (i) the actual total energy consumption of the account for the previous twelve months, expressed in kilowatt-hours divided by (ii) the total energy from the load profile for the customer class for a twelve month period, expressed in kilowatt-hours. For example, if a Non-Electric Heat Residential account had actual usage of 5,986 kWh for the past twelve months and the load profile for the class shows an average twelve month usage of 6,000 kWh, then the Usage Factor for this account would equal 0.998.

4) Each day the distribution utility (Disco) shall read the meter at the Transmission Delivery Point to obtain the hourly loads (TDPL). These loads will then be divided between each supplier based on the customers they serve to determine own-load responsibilities at NEPOOL.

5) For customers with direct access metering equipment, Disco shall remotely access the meter for each account once per day and read the hourly load data for the previous day (Monday's load will be accessed on Tuesday, Tuesday's load will be accessed on Wednesday, Wednesday's load will be accessed on Thursday, Thursday's load will be accessed on Friday, and loads for Friday, Saturday and Sunday will be accessed on Monday);

The adjusted load value at the Transmission Delivery Point shall equal the product of: (i) the demand at the meter as measured in kilowatts; and (ii) the Metering Voltage Adjustment Factor expressed as a decimal; and (iii) the Distribution Loss Factor expressed as a decimal.

The Metering Voltage Adjustment Factor shall equal 1.00 if meter is located on the secondary side of customer's transformer and shall equal 0.99 if meter is located on the primary side of the Customer's transformer.

6) Disco shall determine the total load allocated to each supplier at the Transmission Delivery Point from direct access meters.

$$\text{DAML}(s) = \sum_{c=1}^m \text{DAMR}(s,c) * (1 + \text{Distr. Loss Factor}) * (1 + \text{Meter Adj. Factor})$$

Where DAML means Direct Access Meter Load and DAMR means Direct

Access Meter Reading.

7) Disco shall determine the total load at the Transmission Delivery Point from all suppliers from direct access meters.

$$\text{DAML} = \text{Summation}_{s=1}^n \text{DAML}(s)$$

8) Disco shall determine the total load at the Transmission Deliver Point which is to be allocated to non-direct metered loads (NDAML).

$$\text{NDAML} = \text{TDPL} - \text{DAML}$$

9) Disco shall determine the initial total load at the Transmission Delivery Point which is allocated to each supplier from non-direct access meter loads.

$$\text{INDAML}(s) = \text{Summation}_{k=1}^p \text{N}(s,k) * \text{LP}(k) * (1 + \text{Distr. Loss Factor})$$

where INDAML means initial non-direct access meter load, N number of customers per supplier per customer class and LP the load profile for the customer class.

10) Disco shall determine the initial total load which is allocated to all suppliers.

$$\text{INDAML} = \text{Summation}_{s=1}^n \text{INDAML}$$

11) Disco shall adjust the total initial total loads to get the final loads allocated to each supplier at the Transmission Delivery Point from non-direct access metered loads.

$$\text{NDAML}(s) = \text{INDAML}(s) * (\text{NDAML}/\text{INDAML})$$

12) Disco shall determine the total allocated to each supplier at the Transmission Delivery Point.

$$\text{LOAD}(s) = \text{DAML}(s) + \text{NDAML}(s)$$

13) As a check:

$$\text{TDPL} = \text{Summation}_{s=1}^n \text{LOAD}(s)$$

The loads assigned to each supplier shall be adjusted for actual sales as determined by the meter readings. Forty five (45) days after the end of each month, Disco shall calculate a total adjustment for each calendar month. This will be done by scaling the estimated hourly loads to the metered usage and allocating any difference from the NDAML prorata and multiplying by the Metering Adjustment Factor and Distribution Loss Factor. The total adjusted load will be determined for each supplier and compared to the total load assigned to each supplier for the month. Any differences will be reconciled amongst suppliers at the average NEPOOL cost of supply for the month. A supplier who had more sales than was assessed would pay the difference at the average lambda rate whereas a supplier that was assessed more than the recorded sales would be credited the difference at the average lambda rate.

DR 95-250

## PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

## Retail Competition Pilot Program

Order Partially Approving Joint Recommendation  
and Addressing Outstanding Issues

O R D E R N O. 22,081

March 29, 1996

## I. INTRODUCTION

This order addresses the Joint Recommendation (Recommendation) entered into by Public Service Company of New Hampshire (PSNH), Northeast Utilities Service Company (NUSCO) and the Staff of the New Hampshire Public Utilities Commission (Staff) relative to several aspects of PSNH's participation in the retail electric Pilot Program (Pilot). The Commission has been directed by the Legislature to establish the Pilot pursuant to NH RSA 374:26-a. This order also resolves one outstanding issue which was raised earlier in this proceeding relative to a similar Joint Recommendation entered into by Staff and Granite State Electric Company. That issue involves a determination of the appropriate market price assumptions which utilities will be required to utilize in calculating their projected stranded costs during the Pilot.

## II. Procedural History

On February 22, 1996, PSNH filed with the Commission a Joint Recommendation entered into by PSNH, NUSCO and Staff. On March 6, 1996, PSNH filed Explanatory Testimony of Gary A. Long.

Freedom Energy Company (Freedom) filed a Motion to Join NUSCO as a Party on February 27, 1996. PSNH filed a written objection to such motion on March 5, 1996. On March 12, 1996 we issued Order No. 22,055 in which we denied Freedom's Motion to Join NUSCO as a party.

Hearings were held relative to the Recommendation and other outstanding issues on March 11, 12, 13 and 15. We deliberated the issues addressed in this Order at our March 25, 1996 public hearing.

## III. POSITIONS OF THE PARTIES AND STAFF

## A. The Recommendation

The Recommendation is similar in format to the one entered into by Staff and Granite State, which we conditionally approved in Order No. 22,029 (February 28, 1996) and one submitted by Connecticut Valley Electric Company (CVEC) which we conditionally approved in Order No. 22,037 (March 4, 1996). As with the Granite State filing, PSNH and Staff recommend that the Commission "disengage" from the Pilot certain contentious issues which must be addressed in a transition to retail competition. Specifically, the Recommendation proposes a non-precidential and negotiated resolution of stranded cost recovery and federal/state jurisdiction over retail electric transmission services. PSNH Exhibit 4 p. 1. The Recommendation includes proposed unbundled rates, "access charges" and "incentive credits" for each rate class. The stated objectives of the Recommendation are to (a) provide [the Commission] a "reasonable compromise which eliminates the issues of stranded costs and jurisdiction from this proceeding insofar as they relate to the Pilot," and (b) "...provide incentives for PSNH's customers to participate in the Pilot." PSNH Exhibit 4, P 5. We will allow PSNH to recover most of the revenues which it otherwise would not have earned as a result of the anticipated loss of retail customers in the Pilot.

The Recommendation includes a commitment by both NUSCO and PSNH to file non-discriminatory retail transmission tariffs with the Commission and FERC in order to provide retail transmission service to Pilot customers inside and outside of PSNH's service territory.

The Recommendation acknowledges disagreement between Staff and PSNH relative to two issues. First, Staff and PSNH disagree on the amount that needs to be "backed out" of bundled rates. Staff contends that it should be the anticipated market price for retail transactions during the Pilot. PSNH contends that the appropriate amount should be based upon its short-term avoided costs. The Recommendation includes a range of amounts which should be deducted from the bundled rates for each rate class. PSNH and Staff agree to be bound by the Commission's decision relative to this issue.

The second area of disagreement recognized in the Recommendation relates to the conditions under which PSNH should be permitted to participate in the Pilot as a competitive supplier. The Recommendation provides that PSNH is permitted to withdraw the Recommendation if it is not allowed to participate in the Pilot as a competitive supplier.

## 1. PSNH

According to PSNH, the Recommendation provides a negotiated resolution of certain issues raised by Granite State relative to its participation in the Pilot. Specifically, the Recommendation claims not to create a precedent with respect to the appropriate level of stranded cost recovery or the Commission's jurisdiction over transmission and distribution services.

PSNH presented the testimony of Frank P. Sabatino, PSNH's Vice President of Wholesale Power Marketing, relative to the estimated wholesale market prices which form the basis for the assumed retail market prices for the Pilot. Mr. Sabatino testified that in his opinion there would not be a significant increase in wholesale power prices during the next few years, and therefore, actual prices in recent wholesale transactions provide a reasonable basis from which to estimate retail prices during the Pilot. Based upon Mr. Sabatino's estimates, PSNH projects average wholesale prices of 2.72 cents/KWh for 1996 and 2.92 cents/KWh for 1997. According to PSNH, broken down by customer class and averaged for the two year period of the Pilot, these wholesale projections are as follows:

LG rate class	-	2.62 cents/KWh
GV rate class	-	2.71 cents/KWh
G rate class	-	2.74 cents/KWh
D rate class	-	2.93 cents/KWh

Mr. Sabatino acknowledged that there would be transmission and distribution losses associated with delivering power at retail. Mr. Long also testified that the PSNH's losses for serving Rate LG customers is 4.3% and 6.7% for all other classes.

PSNH contends that it should be allowed to compete for retail load directly through it. At the hearing Staff supported the Commission's ruling in its Final Guidelines which requires franchised utilities to compete for retail customers in the Pilot through an affiliate.

## 2. Staff

Staff indicated that it believed the Recommendation represented a reasonable compromise of the contested issues in this proceeding despite the concerns expressed by other witnesses: Mr. McCluskey acknowledged on cross-examination that Staff did not have all of the information available to it which was presented at the hearing when it entered into the Recommendation. He further agreed that the market price assumptions were a critical aspect of the Recommendation and that if those assumptions were too low, that participating customers would not be able to achieve the savings necessary to encourage customer participation. Nevertheless, Mr. McCluskey testified that the record in this proceeding supports the market price assumptions at the high end of the range presented in the Recommendation.

Staff stood by contention that PSNH should be required to form an affiliate through which it would compete for Pilot customers. Mr. McCluskey testified that if an affiliate was not required, then PSNH could sell at incremental cost and thus have the ability to use its core customers to subsidize its participation in the Pilot.

### B. Freedom

Freedom opposes the Recommendation and contends that the Commission should maintain the approach expressed in the Final Guidelines. Alternatively, Freedom urges the Commission to increase the market price assumption to 4 cents/KWh and increase the stranded cost recovery to yield an anticipated 20% discount off current bundled rates.

Freedom also contends that the Commission should not permit PSNH to participate in the Pilot as a competitive supplier unless it does so through an affiliate. According to Freedom, this requirement is "essential to the credibility and success of the Pilot Program." Post-Hearing Argument of Freedom Energy Company, p. 1.

### C. NHEC

NHEC argues that the Commission should reject the Recommendation because it does not provide the benefits for which Staff bargained. Specifically, NHEC contends that the Recommendation does not prevent PSNH from appealing the Final Guidelines and it contains no "real" commitment by PSNH regarding

transmission access. NHEC asserts that the Recommendation should be rejected because PSNH has refused to provide retail transmission services in order to permit its wholesale customers, including NHEC, to participate in the Pilot.

#### D. Granite State

Granite State contends that the Commission should adopt the market price assumptions which were proposed in its Joint Recommendation with Staff, which range from 2.5 to 2.9cents/KWh. Granite State maintains that "the Commission should be careful not to err on the high side of market price assumptions as some have argued because it could impact market pricing to the detriment of pilot customers and utilities participating in the pilot..." Comments of Granite State Electric Company and New England Power Company on Joint Recommendation Market Pricing, p. 1-2. Alternatively, Granite State indicates that if the Commission adopts it would be willing to proceed with the Pilot with higher market price assumptions if it was authorized to defer the recovery of the additional lost revenues for recovery in rates at the end of the Pilot. Id. at 4-5.

#### E. Unutil

During the hearing, Unutil offered testimony relative to the assumed retail market prices which it urged the Commission to adopt. Specially, Unutil contends that the projected wholesale prices during the Pilot, on which retail prices must be based, are considerably high than those testified to by witnesses for PSNH and Granite State. Unutil also agreed that such wholesale prices must be adjusted for losses and for transaction costs incurred in selling at retail. Unutil estimated that such transaction costs would be \$60 per customer or an average of .37 cents/KWh.

#### F. Cabletron

Cabletron opposes the Recommendation and argues that the Commission should apply the approach adopted in the Final Guidelines. Cabletron shares the concerns of other groups relative to the market price assumptions and level of stranded cost recovery contained in the Recommendation. During the hearing, Cabletron Chairman, Craig Benson, stated that the Pilot can do more than insure lower cost electricity, it can push the state's electric utilities to become more competitive in a number of different areas. Mr. Benson expressed concern about the level of stranded cost recovery called for in the Recommendation, noting that stranded costs in general are based upon many assumptions that should not be accepted at face value. He stated that the Commission should move forward with the Pilot under the terms originally established in the preliminary guidelines. Mr. Benson also encouraged the Commission to proceed to deregulate the electric utility industry as soon as possible.

#### G. PUPI

PUPI contends that it would be "inappropriate to use the wholesale market price of power to set the power cost to be removed from embedded rates..." Comments on PSNH & Staff Joint Recommendation, p. 1. According to PUPI, wholesale rates do not reflect the cost of bringing that power to market which would create a barrier to meaningful supplier competition. During the hearing PUPI offered the testimony of Richard LaCapra who testified that the proper retail market price assumptions should be 2.6-3.8cents/KWh, plus transaction costs. According to Mr. LaCapra, it is more important for the Commission to establish appropriate market price assumptions than to increase the stranded cost discount because the assumed market price will determine whether competitors have meaningful access the retail market during the Pilot.

#### G. CRR

CRR submitted written comments which offered conditional support for the Recommendation. CRR urged the Commission to adopt market price assumptions which are at the high end of the proposed range.

#### H. OCA

OCA contends that the testimony relative to assumed retail market prices by Messrs. Gantz, LaCapra and Rosen are more credible than the testimony of witnesses for PSNH, Granite State and Staff. OCA suggests that the testimony of utility witnesses is unreliable because it is questionable whether the utilities truly want a successful Pilot. Office of Consumer Advocate Summary of Argument, p. 2-3. OCA believes that it is better for the Commission to err on the side of caution and adopt higher market prices which provide a greater guarantee that there will be adequate incentives to encourage customer participation in the Pilot.

#### I. Other Participants

A number of other participants offered written comments regarding the Recommendation. The following participants expressed support for the Recommendation: Greater Portsmouth chamber of Commerce, the New Hampshire Business and Industry Association, Greater Manchester Chamber of Commerce and the Home Builders Association of New Hampshire. Opposition to the Recommendation was expressed in a Recommendation of Customer & Supplier Organizations. The following organizations are signatories to that document: John Ryan, Energy Advocate for the C.A.P. Agencies, Cabletron, Enerdev, Inc., Enron Capital and Trade Resources, Freedom, Granite State Taxpayers, Inc., KCS Power Marketing, Inc., Retail Merchants Association of New Hampshire and Wheelled Electric Power Company.

### III. COMMISSION ANALYSIS

When we established the Preliminary Guidelines for the Pilot, we also took the opportunity to express our initial views regarding many of the complex issues which must be resolved in order to move toward an expeditious and orderly transition to retail electric competition in New Hampshire. Not surprisingly, our views relative to state/federal jurisdiction and stranded cost recovery generated considerable contention. In the case of PSNH, we also held that the Rate Agreement did not prohibit the implementation of the Pilot.

In the Final Guidelines we reiterated these initial views, but expressly stated that they do not constitute final legal rulings on these matters. This approach reflects our belief that the Pilot is not the appropriate forum for stakeholders and other parties to deliberate, debate and ultimately litigate the merits of our views relative to such contentious issues. In our view, these issues are more appropriately resolved in the context of restructuring proceedings. The purpose of the Pilot is to explore the implications of retail competition through an experiment which is limited in size and duration; it should not be used as a vehicle to attempt to resolve all of the complex and contentious issues associated with a transition to retail competition for all customers. Likewise, the Pilot is not intended to guarantee immediate or substantial near-term rate relief for New Hampshire ratepayers. The limited size and duration of the Pilot means that only a small percentage of New Hampshire customers will be able to participate in the Pilot. Meaningful rate relief, through the introduction of retail competition, can only be achieved in the context of industry restructuring efforts which we anticipate initiating in the near future.

Based on the foregoing considerations, we believe that it is appropriate and in the public interest to consider alternatives to the Final guidelines which defer a thorough consideration of the most contentious issues in order to implement the Pilot expeditiously. Nonetheless, any such alternative must provide customers with a meaningful opportunity to participate in a competitive market. It is with these considerations in mind that we evaluate the PSNH Recommendation.

#### A. Avoided Costs vs. Market Price Assumptions

We first consider the disagreement over whether the amount that should be "backed out" out of bundled rates should be PSNH's avoided costs or an assumed retail market price. In our view, this issue is easily resolved because it has already been addressed in the Guidelines which require utilities to take reasonable actions during the Pilot to mitigate stranded costs. The first and obvious mitigation strategy is to sell the output of resources that otherwise would have been used to supply bundled service to retail customers. The use of a utility's incremental cost would not recognize the margin which could be earned on those sales.

We turn next to the determination of the appropriate level of the assumed retail market prices which should be used by all utilities in the development of unbundled rates. At the outset, we agree with the view that the starting point for this determination should be the projected wholesale market price of power for short-term transactions. The record reflects wholesale power price projections which range from just under 2.5 cents/KWh to approximately 3.8 cents/KWh. After reviewing the record and considering all of the testimony presented on this issue, we believe that the weight of the evidence supports the wholesale market price assumptions attributed to PSNH's affiliate, Western Massachusetts Electric, which were provided by PSNH's witness, Frank P. Sabatino. Mr. Sabatino projected that the average wholesale price during the Pilot will be 2.82 cents/KWh. PSNH's breakdown by customer class is set forth above in the description of its position. The projected wholesale prices provided by PSNH are also supported by previous testimony of witnesses in the hearings which addressed the Recommendations of Granite State and CVEC. Based upon our determination that these projections are supported by the weight of the evidence, we direct each utility to use these class-specific wholesale prices as the basis for the assumed retail market prices to be used in the Pilot.

Because the foregoing price assumptions reflect wholesale price assumptions, it is appropriate to make several adjustments in order to calculate projected retail prices. We agree with the opinion that the wholesale price assumptions should be adjusted for losses associated with the delivery of power over each utility's transmission and distribution system. In addition, we will require the loss adjusted wholesale to be increased to recognize that competitive suppliers will incur real transaction costs in order to make a retail sale to customers in the Pilot. We find that the transaction cost estimate of 0.37 cents/KWh presented by George Gantz of Unutil is a reasonable forecast of those costs.

These considerations result in assumed market prices which exceed those presented in the Recommendation. The table below sets forth our calculation of the appropriate assumed retail prices for PSNH. Thus, our approval of the PSNH, Granite State and CVEC Recommendations is contingent upon the use of these assumed market prices adjusted for losses on a utility-specific basis. In the event that a utility is ordered to implement the Pilot based on the Final Guidelines, the same market price assumptions should be used to calculate the stranded cost component of the unbundled rates.

As several witnesses pointed out during the hearing, if the assumed retail market prices established by the Commission turn out to be higher than the actual market prices at which power is sold in the Pilot, the result would be to increase customer savings but also increase the financial impact on the state's franchised utilities. As we stated above, we have undertaken an evaluation to establish market price assumptions which have the most support in the record. In the event that these retail price assumptions turn out to be incorrect, we believe it is reasonable to allow utilities to seek recovery of revenues which it otherwise would have earned during the Pilot. Accordingly, to the extent that actual market prices are lower than those established herein, we will allow PSNH, Granite State and CVEC to seek recovery of revenues which represent the difference between such actual market prices and those proposed in their Recommendations. Any such recovery must be sought at the conclusion of the Pilot after the Commission has the opportunity to evaluate data from which the calculation of actual market prices must be made.

#### B. Affiliate Requirement

We next consider the issue of whether PSNH should be permitted to participate directly in the Pilot as a competitive supplier, through its current corporate entity, or whether it should be required to participate through a subsidiary or affiliate. After considering the extensive testimony on this subject, we must initially express our strong preference that PSNH and its parent company move expeditiously to form an appropriate subsidiary or affiliate to participate in the Pilot. We expect that PSNH will undertake efforts to create such an entity, if it has not already done so. Nevertheless, we are cognizant of the testimony of Mr. Keane, PSNH's Treasurer, that there may be insufficient time for PSNH to receive all the necessary regulatory approvals before the Pilot implementation date. It is for this reason alone that we will permit PSNH to participate in the Pilot, through its current corporate entity, but upon the conditions set forth below.

We will permit PSNH to participate in the Pilot through the establishment of a division which will offer the functional equivalent of a separate legal entity. In the event that PSNH elects this alternative, we direct it to file with the Commission by April 2, 1996 a description of the mechanisms and safeguards which will achieve the functional equivalent of a separate legal entity. This proposal must include (a) the establishment of proper accounting mechanisms, (b) proposed budgets for such a division and (c) a commitment to sell wholesale power to its competitors under rates, terms and conditions that are comparable to those which are available to its division. PSNH is required to specify the pricing methodology which it proposes to employ for wholesale power sales and the mechanism to ensure comparability. The latter requirement reflects the concern which we share with several witnesses, particularly Mr. LaCapra, that unless certain safeguards are implemented, PSNH's market power could be exercised in a manner which would unfairly hinder the ability of competitive suppliers to participate in the Pilot. Due to the fact that PSNH's uneconomic power costs will be recovered through an unavoidable stranded cost charge, it could effectively thwart market entry by pricing power at its marginal cost while competitors must purchase at the prevailing wholesale market rate. This would result in captive customers subsidizing the competitive activities of PSNH and would not "foster competition" as PSNH alleged. Accordingly, we will require PSNH to offer to any competitive supplier capacity/power at the same rates and under the same terms and conditions which it makes available to its division for retail sale.

#### C. Wholesale FPPAC

Although the Recommendation does not address the impact of the Pilot on the wholesale FPPAC rate, it is an issue that was raised at the hearings. We believe that it would be unfair to wholesale customers to allow wholesale FPPAC charges to increase as a result of implementing the Pilot. Therefore, in addition to the retail FPPAC modifications proposed by PSNH, we direct it to propose a modification to the wholesale FPPAC formula in order to ensure that wholesale customers incur no greater power costs than they would in the absence of the Pilot.

#### D. Eligibility for Transmission Services

We believe that transmission services should be extended to potential Pilot customers of NHEC and municipal electric utilities irrespective of potential legal disputes over wholesale contracts. As a further condition of our approval of the Recommendation, we will require PSNH and NUSCO to make available to NHEC and to all municipal electric utilities transmission tariffs on the same rates, terms and conditions which apply to other non-PSNH Pilot participants.

The Recommendation appropriately acknowledges that the proposed retail transmission tariffs are subject to review and approval by this Commission and the FERC which will take place after such tariffs are filed. Accordingly, our conditional approval of the Recommendation is contingent upon the approval of those tariffs.

#### E. Miscellaneous Issues

##### 1. Acquisition Premium

We will allow PSNH to unbundle the costs associated with the acquisition premium which are currently recovered in bundled rates. Nevertheless, this decision should not be interpreted as an indication that such unbundling would be appropriate in any future proceedings related to restructuring. Rather, we accept this approach only for the purposes avoided a dispute over the proper treatment and recovery of such costs.

##### 2. Participation Incentive Credit

The participation incentive credit approach proposed in the Recommendation is a reasonable one and we will approve it. We also believe that the record supports the conclusion that a 10% discount will generate sufficient participation in order to meet the objectives of the Pilot.

Based upon the foregoing, it is hereby

ORDERED, that the Joint Recommendation of PSNH, NUSCO and Staff is approved under the foregoing terms and conditions; and it is

FURTHER ORDERED, that the assumed retail market prices assumptions for the Pilot shall be those which we have adopted in this order; and it is

FURTHER ORDERED, that PSNH shall file with the Commission its proposed procedures for establishing a retail sales division prior to the close of business on April 2, 1996.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of March, 1996.

/s/Douglas L. Patch	/s/Bruce B. Ellsworth	/s/Susan S. Geiger
Chairman	Commissioner	Commissioner

Attested by:  
/s/Kimberly Nolin Smith  
Assistant Secretary