STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL

Docket No. 91-09-07

**DPUC REVIEW OF
NORTHEAST UTILITIES PLAN TO ACQUIRE
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE**

and

Docket No. 90-07-25

**APPLICATION OF PUBLIC SERVICE COMPANY OF
NEW HAMPSHIRE
FOR WAIVER OF APPROVAL TO ISSUE SECURITIES
IN CONNECTION WITH THE SECOND STEP OF THE
ACQUISITION OF PUBLIC SERVICE COMPANY OF
NEW HAMPSHIRE
BY NORTHEAST UTILITIES**

DECISION

MARCH 31, 1992

Executive Summary

The Authority's goal in this proceeding has been to ascertain the basic reasonableness of the acquisition and merger and, if the merger appears to be in the public interest, to put into place realistic, workable conditions that insulate Connecticut ratepayers from undue risk. The NU Board of Directors is ultimately responsible for determining whether this acquisition is a good investment, with prospects for an appropriate return for NU shareholders. The Authority need only determine the more limited, but for Connecticut ratepayers crucial, question of whether ratepayers can be adequately protected from potential negative impacts, when balanced against expected benefits.

The Authority concludes that the benefits to Connecticut ratepayers of the NU/PSNH merger outweigh the risks and that approval of the merger, subject to certain conditions, is in the public interest. The Authority is mindful that uncertainty remains regarding actions in other forums, and therefore, it has imposed conditions to protect against possible future changes.

The synergies, or savings, to all ratepayers of NU's main subsidiary, The Connecticut Light and Power Company, from combining the PSNH and NU systems are expected to be in the range of $100 to $300 million, under all reasonable assumptions. Depending on the level of synergies achieved, CL&P residential customers would experience annual real savings of $3 to $17. Savings to customers of The United Illuminating Company would be about $38 million dollars.

The approval conditions provide reasonable protection for Connecticut ratepayers against all known risks. In order to insulate CL&P customers from the business and financial risks of the merger, CL&P must notify the Authority if the amount of equity in its capital structure (excluding short-term debt except that amount in excess of 7% of total capitalization) will fall below 36 percent, and the Authority may conduct a review. In future rate cases, CL&P will accept a methodology for determining the cost of capital without relying on NU's cost of capital. These conditions will remain in effect until at least one year after the New Hampshire fixed rate period ends in 1997 and until NU demonstrates that PSNH's capital structure and bond ratings meet certain standards.

The Authority finds that Federal Energy Regulatory Commission Opinion 364-A provides CL&P with the opportunity to gain sufficient compensation for the use of its transmission system and preserves its ability to protect native load customers. Since Opinion 364-A could be changed upon appeal, however, the Authority requires that at least half of the potential merger benefits are reserved from the risk of changes to Opinion 364-A.

In order to guarantee a certain amount of savings for CL&P ratepayers, the Authority intends that at least 50 percent of CL&P's share of projected savings in administrative and general expenses will be used to reduce revenue requirements in future CL&P rate proceedings.

In order to prevent Connecticut ratepayers from being disadvantaged as a result of the merger, other conditions require that:

•all administrative and general overhead costs be allocated fairly among the operating companies,

•the benefits of off-system capacity sales be apportioned based on a specific formula on a system-wide basis,

•the Department be notified in advance of any proposed changes to the Sharing Agreement or Capacity Transfer Agreements that govern certain power transactions among the NU system companies, and

•the benefits of CL&P Clean Air Act Amendment allowances be allocated to CL&P.

The Authority finds that if PSNH loses the New Hampshire Electric Cooperative load, it would adversely affect NU shareholders but would not be detrimental to Connecticut ratepayers.

This Decision ends a review which formally began in November 1989. The merger, if consummated, would represent a regional solution to a regional problem and probably the final chapter of the Seabrook saga.

The Authority further grants final approval of the issuance of step-two securities and the implementation of all other step-two transactions by PSNH.

DECISION

I. INTRODUCTION

A. PSNH/Seabrook Background

Public Service Company of New Hampshire ("PSNH"), incorporated in 1926 under the laws of New Hampshire, is the largest electric utility in New Hampshire, supplying electricity to approximately three-quarters of the state's population. By virtue of its 2.8% interest in Millstone Unit 3, it is a foreign electric company within the meaning of Section 16-246a of the General Statutes of Connecticut ("Conn. Gen. Stat."). PSNH owns a 35.6% joint ownership interest in Seabrook Unit 1 ("Seabrook"), a 1150 MW pressurized water reactor nuclear power plant located in the town of Seabrook, New Hampshire, and has entitlement to the same percentage of Seabrook's capacity and energy.

The Seabrook project was initiated by PSNH in the early 1970's as an 800 MW nuclear powered unit. Prior to initiation of construction, PSNH, which controlled the site, offered other New England utilities the opportunity to purchase shares in the unit. Shares of the offering were well subscribed and plans were made for a second unit. PSNH retained a 50% ownership interest in both units. The United Illuminating Company ("UI") was the second largest participant, with a 20% ownership share. The remaining shares were auctioned to interested New England utilities under the auspices of the New England Power Pool ("NEPOOL"). Northeast Utilities ("NU"), parent of The Connecticut Light and Power Company ("CL&P") owns slightly more than 4%.

Construction of the Seabrook plant commenced in 1974, after PSNH received its siting certificate. The plant was planned as a twin 1150 MW reactor plant with a projected total cost of approximately $973 million and with completion originally projected for Unit 1 in November 1979. However, on May 7, 1979, the New Hampshire Legislature enacted the "anti-CWIP" law, prohibiting recovery in rates of costs expended by a utility for construction of a plant until the plant is in commercial operation. PSNH began to experience difficulty in financing its share of Seabrook's construction, and was effectively precluded from continuing to generate internally the funds needed to support its ownership position. By April 1981, the estimated cost of Seabrook had risen to $3.6 billion and commercial operation dates for Units 1 and 2 were announced to be February 1984 and May 1986, respectively. PSNH then sold off 14.4% of its Seabrook ownership position, reducing its original 50% investment in the proposed plant to 35.6% in 1982. In November 1982, the estimated costs rose to $5.1 billion. In

view of sharply escalating construction costs, state regulatory commissions, including the Connecticut Department of Public Utility Control ("Department") re-examined the need for Unit 2. In August 1983, the Department ordered UI and NU to disengage from Unit 2. See Docket No. 83-03-01, Application of The United Illuminating Company to Increase Its Rates and Revenues, Decision dated August 22, 1983, Appendix, pp. 10-11.

In March 1984, a new estimate projecting total costs at $9 billion for both units was released. Commercial banks became unwilling to provide PSNH with credit under its revolving credit arrangement and PSNH was unable to meet its payments for the costs. The project came to a halt on April 18, 1984. The Joint Owners acquired a new managing agent to replace PSNH and in August 1984 the construction restarted on Unit 1 only. Seabrook Unit 1 was put into commercial operation on June 30, 1990. At that time, the total cost of Seabrook Unit 1 was approximately $6.5 billion. Of that total, the amount invested by PSNH was estimated to be $2.9 billion.

On January 28, 1988, PSNH filed a voluntary petition for reorganization under Chapter 11 of the United States Bankruptcy Code (Case No. 88-00043). PSNH's Annual Report to the Securities and Exchange Commission (Form 10-K) for 1989 linked the bankruptcy directly to PSNH's investment in Seabrook. Page 1 of that filing states that the financial difficulties that led to its bankruptcy were attributable to a combination of several factors, chief of which was "the magnitude of the Company's investment in the Seabrook Nuclear Generating Station Unit 1, which represents more than half of the book value of the Company's assets on its financial statements...." Following the bankruptcy filing, representatives of the State of New Hampshire pursued negotiations with several parties concerning the level of rates which PSNH may be allowed to charge New Hampshire ratepayers for electricity under any confirmation of a plan of reorganization. Negotiations resulted in plans proposed by PSNH management, NU, UI and the New England Electric System ("NEES").

On November 22, 1989, the State of New Hampshire entered into an Agreement with NU to resolve the bankruptcy. The New Hampshire Legislature approved a Rate Plan on December 18, 1989, the essential terms of which suspended the anti-CWIP law for the Reorganization and provided for seven annual 5.5% increments in PSNH's retail rates, commencing January 1, 1990. Shortly thereafter, on December 28, 1989, NU filed its Third Amended Joint Plan of Reorganization ("Merger Plan"). The Merger Plan was accepted by secured and unsecured creditors and equity holders of PSNH and confirmed by the United States Bankruptcy Court for the District of New Hampshire on April 20, 1990. It is this Merger Plan that has been the subject of the instant proceeding.

B. NU/PSNH Reorganization Plan

The acquisition would occur in two steps and result in the merger of the PSNH system into NU. Step one, in which PSNH emerged from bankruptcy as a stand-alone reorganized public utility, occurred on May 16, 1991. The reorganized PSNH is committed to a merger with the NU-owned Northeast Utilities Acquisition Corporation ("NUAC"), a shell New Hampshire corporation. PSNH is being operated by NU through its subsidiary, Northeast Utilities Service Company ("NUSCO").

To emerge from bankruptcy in Step One, PSNH paid off its secured creditors, made cash payments to its unsecured creditors and issued reorganized PSNH common stock to the unsecured creditors and to current equity holders. The cash to pay off secured creditors and make payments to the unsecured creditors came from the issuance of: $125 million in preferred stock in reorganized PSNH; $342.5 million in first mortgage bonds secured by PSNH's non-Seabrook assets; a five-year term loan of $452 million; $287.5 million in tax exempt pollution control revenue bonds; $229 million in taxable pollution control revenue bonds, and $29 million in PSNH cash holdings. An additional $844.3 million in common equity and contingency notes was issued to the unsecured creditors and equity holders.

In the second step, NU would buy all the equity in stand-alone PSNH which would then merge its non-Seabrook assets with NUAC leaving PSNH as the surviving utility. PSNH's ownership in the Seabrook 1 nuclear power plant, the land surrounding the Seabrook site, and its nuclear fuel would be transferred to the NU-owned North Atlantic Energy Corporation ("North Atlantic"). A second NU subsidiary, NU Operating Company, now known as North Atlantic Energy Services Company, would be created to operate Seabrook on behalf of its joint owners.

To merge with PSNH in Step Two, NU would be required to raise approximately $897 million in cash, plus the amount of any additional PSNH common stock dividends accrued in 1992. This money and approximately 8.4 million NU warrants would be used to retire $640 million in stand-alone PSNH common stock, additional stock dividends, some short-term debt, and to pay off NU expenses and the New Hampshire transfer tax. As originally planned, this money would be raised initially through the issuance of $150 million in NU common shares, a $392 million term loan and $355 million in North Atlantic debt secured by Seabrook 1. Due to improvements in the financial markets, however, the cash will be raised by the issuance of $250 million through two separate ESOPs (Employee Stock Ownership Plans), a public offering of $20[illegible] million of NU common shares, and $355 million in North Atlantic debt secured by Seabrook.

To complete the merger, NU would enter into several agreements with PSNH, which are, in brief:

Rate Agreement - specifies the form of the transaction; sets the recovery period for the acquisition premium; provides for 5.5% rate increases for PSNH for seven years, as well as fuel and purchased power clauses; establishes minimum and maximum NU equity returns; requires PSNH to attempt to renegotiate existing contracts with Small Power Producers and the New Hampshire Electric Cooperative ("NHEC"); and requires PSNH and the State of New Hampshire to negotiate rate relief if NHEC is no longer a partial requirements customer of PSNH;

Power Contract - a life-of-unit contract covering the sale to PSNH of all of the capacity and energy generated by North Atlantic's share of Seabrook;

Sharing Agreement - defines how the combined NU/PSNH system will be planned and operated and how the synergies from that combined operation will be shared, to wit: 75% Initial System and 25% PSNH for savings from synergies associated with combined systems NEPOOL capacity savings; NEPOOL energy savings allocated first as if Initial System and PSNH were stand-alone utilities, with combined dispatch synergies allocated 50/50; energy transaction savings allocated on a pro rata basis; expires after 10 years;

Capacity Transfer Agreements - the first agreement defines the "slice-of-system" mix and price that CL&P will sell to PSNH if PSNH does not have adequate resources to meet its NEPOOL capability responsibility (capacity to meet peak load and a reserve requirement); the second agreement defines the "slice-of-system" mix for PSNH to sell to NU if NU cannot meet its capability responsibility (the price has not been calculated); expires after ten years;

Merger Agreement - sets forth the legal framework for the merger; establishes the structure for conversion of PSNH securities upon merging; sets out the necessary regulatory approvals and other conditions precedent to the merger;

Management Services Agreement - provides for NUSCO to render all necessary management and operational services to PSNH until PSNH becomes a wholly owned subsidiary of NU; during Step One NUSCO provides management services for Seabrook upon approval by the Seabrook joint owners and the Nuclear Regulatory Commission ("NRC").

II. PROCEDURAL HISTORY

A. Docket No. 89-08-26

On October 5, 1989, the Department issued a Decision in Docket No. 89-08-26, Petition of the Office of Consumer Counsel and the Attorney General Regarding Northeast Utilities Plan to Acquire Public Service Company of New Hampshire, denying the request by the Office of Consumer Counsel ("OCC") and the Attorney General ("AG") that the Department hold a hearing to investigate the potential effect on CL&P and its ratepayers of the Merger Plan. The Department found that, because the Merger Plan submitted by NU in the PSNH bankruptcy proceeding was one of many before the Bankruptcy Court, the request was premature. The Decision indicated that the Department would be issuing data requests on the NUSCO proposal and based on the responses and the actions of the Bankruptcy Court, the Department would determine how to proceed.

By letter dated November 14, 1989, the Department granted a request by the OCC and the AG to expand the scope of Docket No. 89-08-26 to include a review of the proposed acquisition of PSNH by UI.

On December 22, 1989, the Department issued a Notice of Hearing in Docket No. 89-08-26. By that Notice, CL&P was ordered to file testimony on eleven issues relative to the proposed acquisition of PSNH.

B. Docket No. 90-01-01

By Decision dated January 10, 1990, in Docket No. 89-08-26, the Department determined that the circumstances prevailing at the time of initiation of Docket No. 89-08-26 had changed significantly enough to warrant a change in proceeding.

Citing the withdrawal of UI's proposal to acquire PSNH, as well as the multiple revisions to the Merger Plan and several directives from the Bankruptcy Court having jurisdiction over PSNH, the Department closed Docket No. 89-08-26 and initiated Docket No. 90-01-01, DPUC Investigation of Northeast Utilities Plan to Acquire Public Service Company of New Hampshire. The Department determined that Docket No. 90-01-01 would not be a contested proceeding and the parties to Docket No. 89-08-26 would become participants in the non-contested proceeding. The focus of Docket No. 90-01-01 would be to examine the implications of the proposed acquisition on (1) CL&P ratepayers, (2) Connecticut electricity consumers generally, and (3) the New England electricity infrastructure. The Department incorporated all material filed in Docket No. 89-08-26 into Docket No. 90-01-01, including the request that CL&P provide testimony on the issues indicated in the Department's December 22, 1989, Notice of Hearing.

Because the new docket involved substantial and complex issues of fact and law, the Department determined that outside expertise was required. On January 10, 1990, the Department issued a Request For Proposal to conduct a management audit of the NU proposal to acquire PSNH. The audit request sought evaluation of the transactions anticipated and the identification of the potential impacts of such transactions on CL&P, its customers and the regional electricity markets. By letter dated February 2, 1990, the Department selected Booz•Allen & Hamilton, Inc. ("BAH") to perform the audit. BAH filed its first Report as required under its contract with the Department on April 20, 1990.

By Notice of Hearing dated January 10, 1990, the Department conducted a hearing in Docket No. 90-01-01 on February 5 and 8, 1990. The hearing was continued to February 22, 1990, when it was opened and immediately continued to March 23, 1990. On March 23, 1990, the hearing was opened and immediately continued without date. By Notice of Continued Hearing dated March 29, 1990, the hearing was continued and held on May 1, 1990.

On January 8, 1990, NUSCO, on behalf of NU and its operating public utility subsidiaries, made several filings with the Federal Energy Regulatory Commission ("FERC") seeking certain approvals concerning the Merger Plan. On March 2, 1990, FERC granted the NUSCO motion to consolidate the filings, which became FERC Docket Nos. EC90-10-000 et al. To further the interests of Connecticut electric ratepayers, the Department intervened in the FERC proceeding. On January 28, 1990, the law firm of Van Ness, Feldman & Curtis was designated as Special Assistant Attorney General to represent the Department before FERC. The Department's proceeding on Docket No. 90-01-01 remained inactive during this time pending a ruling by FERC.

On January 29, 1991, the New Hampshire Electric Cooperative ("NHEC") signed a contract with New England Power Company ("NEP"), allegedly in violation of its power contract with PSNH. NHEC is one of PSNH's largest wholesale customers. FERC accepted NHEC's contract with NEP on March 28, 1991, but suspended its effectiveness pending a determination as to whether, and to what extent, NHEC's contract with PSNH precluded it from taking power from NEP. NHEC filed for bankruptcy on May 6, 1991.

By letter dated May 1, 1991, the OCC requested that the Department recommence its proceedings in Docket No. 90-01-01 to review the proposed merger in light of developments that had occurred in 1991. By letter dated May 22, 1991, the Department advised the OCC that it would continue to monitor events closely, but would defer reconvening the proceeding until the FERC rendered a final decision.

On August 6, 1991, the Department issued a Procedural Order and Notice of Prehearing Conference in Docket No. 90-01-01. In that document, the Department took notice of two milestone developments and re-initiated the docket: (1) the draft FERC order issued on July 31, 1991 (subsequently adopted by the FERC on August 9, 1991, as Opinion No. 364); and (2) the September 3, 1991, Report by BAH with analysis and recommendations concerning the merger proposal, except as to FERC matters. A prehearing conference was held on August 20, 1991, for the purpose of discussing the Procedural Order and time schedule.

On August 21, 1991, the Department adopted a resolution urging FERC to reconsider Opinion 364. The Department expressed concern that the decision left unanswered several critical transmission pricing issues, did not adequately protect the interests of the ratepayers who have financially supported the transmission system, and threatened the economic benefits and reliability of the New York tie lines (the interconnection of NEPOOL, through the NU transmission system, and the New York Power Pool). The Department petitioned FERC for a rehearing on Opinion 364. Other parties, including NU, also petitioned for rehearing on a number of issues, and FERC granted the rehearing.

On August 29, 1991, the Department issued a Notice of Scope of Proceeding and Notice of Intent to Initiate Separate, Contested Docket ("August 29, 1991 Notice"); a Revised Procedural Order; a Scheduling Order, and the minutes of the August 20, 1991, prehearing conference. The August 29, 1991 Notice advised that the scope would be limited to the effects that the Merger Plan would have on Connecticut's electric utilities and their ratepayers.

Pursuant to Section 16-2(c) of the Conn. Gen. Stat., on September 3, 1991, this matter was reassigned from a panel of three to all five Commissioners who constitute the Public Utilities Control Authority ("Authority"). On that same date,

BAH provided the Department with its Updated Report on the proposed acquisition. By letter dated September 6, 1991, the Department advised the participants that it had taken Administrative Notice of the Updated Report and included it in the file for Docket No. 90-01-01.

On September 30, 1991, the Department requested BAH to provide an Addendum to the September 3, 1991, Updated Report, that refined BAH's recommended conditions to the Merger Plan. On October 10, 1991, BAH provided the Addendum.

C. Docket Nos. 91-09-07 and 90-07-25

By Notice of Combined Hearing dated October 11, 1991, in Docket No. 91-09-07, DPUC Review of Northeast Utilities Plan to Acquire the Public Service Company of New Hampshire and Docket No. 90-07-25, Application of Public Service Company of New Hampshire for Waiver of Approval to Issue Securities in Connection with the Second Step of the Acquisition of Public Service Company of New Hampshire by Northeast Utilities ("October 11, 1991 Notice"), the Department indicated that it would conduct a contested public hearing to determine the effects that the Merger Plan, if approved, would have on Connecticut's electric utilities and their ratepayers. By the October 11, 1991 Notice, the Department took administrative notice of all written documents filed in Docket No. 90-01-01, including the Updated Report and the October 10, 1991, Addendum to the Updated Report; the transcripts of the public hearings; all prefiled testimony; responses to interrogatories and late filed exhibits and incorporated them into the record of Docket No. 91-09-07. The Director of the Prosecutorial Division of the Department was designated as the legal representative of BAH.

By the October 11, 1991 Notice, the Department also reopened Docket No. 90-07-25, Application of Public Service Company of New Hampshire for Waiver of Approval to Issue Securities in Connection with the Second Step of the Acquisition of Public Service Company of New Hampshire by Northeast Utilities. In its initial Decision dated August 29, 1990, in that docket, the Department granted conditional approval to the so-called "Step 2" financing arrangements as set forth therein and confirmed by the Bankruptcy Court. In so doing, the Department reserved the right to review any additional or different transactions or arrangements that may be imposed or required by the FERC, and to modify or revoke the Step 2 approval.

By letter dated October 15, 1991, the OCC requested that the Department suspend the proceedings on the merger until a final decision from FERC on the proposed merger and a final decision regarding the NHEC bankruptcy. Citing other issues that warranted maintaining the hearing schedule, the Department denied the OCC request without prejudice by letter dated October 17, 1991.

Pursuant to the October 11, 1991 Notice, the Department conducted a public hearing on October 21, 22, 23 and 24, 1991. The hearing was continued to November 4, 1991, for cross examination on late filed exhibits, after which it was continued without date.

By Notice of Technical Meeting dated October 28, 1991, the Department held a Technical Meeting on October 31, 1991, to discuss the Auditor's Implementation Formula for Condition No. 5 contained in its October 10, 1991, Addendum.

On November 15, 1991, CL&P filed a Motion for Disposition of All Issues Involving NHEC, arguing that any evaluation by the Department of the impact on ratepayers of the potential loss by PSNH of the NHEC load could and should be performed based on the evidence already in the record. The AG filed an Opposition to the NHEC Motion on November 21, 1991, and requested that the Department not rule on the merger until the NHEC litigation is resolved. By letter dated November 27, 1991, OCC joined in the AG's Opposition. By letter dated December 6, 1991, the Department advised the Parties to this docket that it required additional information in order to rule on the Motion or the Opposition and ordered OCC, the AG and CL&P to provide that information. The AG and OCC provided the requested information in separate filings of December 13, 1991, and CL&P made its filing under Protective Order on December 20, 1991.

On December 16, 1991, the Department issued a revised Limited Scheduling Order to move ahead on issues unrelated to the FERC decision, including the NHEC issues. The schedule regarding FERC issues continued in suspension.

By Letter Decision dated December 20, 1991, OCC requested that the Department suspend the schedule regarding NHEC issues. In support of its request, OCC cited possible legislation in New Hampshire that could undermine the Rate Agreement between NU and PSNH. In a letter dated December 24, 1991, the Department found that the hearing on the NHEC issues that had been scheduled for January 14, 1992, was indeed premature and suspended the hearing date. The remainder of the Limited Scheduling Order remained in effect. However, in its Decision, the Department also indicated its intention to issue a separate order setting forth the scope of any hearing that it would eventually hold on the NHEC issues.

On January 24, 1992, the Department issued a revised Scheduling Order. On January 29, 1992, FERC issued Opinion No. 364-A, Order on Rehearing. The Department issued a Scope of Hearing Order and Notice of Continued Hearing on February 7, 1992. Pursuant to that Order and Notice, the Department conducted a hearing in its offices on February 24, 1992, concerning outstanding issues related to the FERC Opinion 364-A. The hearing was continued to February 25, 1992, to cover issues concerning NHEC. That hearing was sequestered pursuant to a Protective Order dated October 8, 1991.

D. Parties and Intervenors

By the October 11, 1991, Notice of Hearing, the Department designated the following parties to Docket No. 91-09-07: The Connecticut Light and Power Company, P.O. Box 270, Hartford, CT 06141-0270; The United Illuminating Company, 80 Temple Street, New Haven, CT 06506; Bozrah Light and Power Company, P.O. Box 7, Gilman, CT 06810; Connecticut Municipal Electric Energy Cooperative, 30 Stott Avenue, Norwich, CT 06360-1535; Office of Consumer Counsel, 136 Main Street, Suite 501, New Britain, CT 06051; Office of Attorney General, 1 Central Park Plaza, New Britain, CT 06051; and Office of Policy and Management, 80 Washington Street, Hartford, CT 06106.

Connecticut Industrial Energy Consumers ("CIEC") requested and was granted intervenor status.

Pursuant to the September 30, 1991, revised Scheduling Order, Parties and the Intervenor filed Prehearing Memoranda and Statements of Position. On March 4, 1992, Parties filed briefs, followed by reply briefs on March 10, 1992. The Department issued a draft Decision on March 20, 1992, and the Parties and Intervenor were provided the opportunity to file Written Exceptions and present Oral Arguments.

III. AUTHORITY ANALYSIS

A. In General

First, the focus of the Authority in this unique proceeding differs from the perspective ordinarily employed in the rate setting process. In the course of setting rates, as in other regulatory activities, the Authority is directed by statutes and judicial precedent to balance the competing interests of the utility company and its customers. Here, the Authority's primary concern has been all Connecticut electric ratepayers. The financial health of the NU holding company and the protection of its shareholders are the fiduciary responsibilities of the NU Board of Directors not of the Authority. While the overall financial health of the holding company and its subsidiaries can affect rates charged to Connecticut customers, the Authority's goal has been to ascertain the basic reasonableness of the acquisition and merger and, if the merger appears to be in the public interest, to put into place realistic, workable conditions that insulate Connecticut ratepayers from any undue risk.

The NU Board of Directors is ultimately responsible for determining whether this acquisition is a good investment, with prospects for an appropriate return, for NU shareholders. The Authority need only determine the more limited, but for Connecticut ratepayers crucial, question of whether ratepayers can be adequately protected from potential negative impacts, when balanced against expected benefits.

The Authority appreciates the involvement of all the participants throughout this lengthy and complex proceeding. The OCC and AG were particularly helpful in furthering discovery and probing the issues. Both the OCC and AG take the position in their briefs that, should the merger be approved, the Authority should impose conditions to protect Connecticut ratepayers from the risks. The Authority has considered the recommendations of the Parties carefully and believes, that while all of our determinations may not mirror those that they propose, they achieve the desired result.

B. Merger Synergies

In determining whether the Authority should approve the merger and what conditions, if any, should be imposed, we must evaluate the balance of benefits, costs, and risks to CL&P, and, derivatively, to Connecticut electric ratepayers generally. The Authority must determine that the benefits of the merger to Connecticut ratepayers outweigh the risks associated with the transaction.

An NU summary of Connecticut (CL&P and UI) synergies, including Seabrook operating and maintenance ("O&M") and administrative and general ("A&G") expenses, projected to result from the combination of NU and PSNH systems, indicates the following on a cumulative net present value ("CNPV") basis (thousands of 1992 dollars). Exhibit JWN-1s, 8/30/91.

NU ANALYSIS

	CL&P	UI	CT
Energy Expense	$177,093	($59,191)	
Seabrook O&M	19,049	98,778	
Peak Load Diversity	28,928	(1,955)	
A&G	74,100*	---	
Fossil Steam Unit Availability	2,749	---	
Total	$301,919	$37,632	$340,351

*Based on NU updated Plan

These NU-provided data indicate that the combination of the NU and PSNH systems will provide substantial cost savings for Connecticut ratepayers.

During the hearing on February 25, 1992, a Company witness described how events since the filing of JWN-1s had affected the synergies and indicated that the synergies will remain about the same as indicated in that exhibit (see above). That witness also stated that the energy expense synergy may be slightly higher than indicated in JWN-1s because of the larger differential between the price of coal and oil and because PSNH load is growing more slowly than that of NU. TR 2/25/92, pp. 6-8.

Data also were provided by BAH, the Department's auditor, assessing the benefits of the Merger Plan under different scenarios. In BAH's response to Interrogatory EL-42, estimates of the various synergies for the base case, including analyses of differences with NU's projected savings, were developed. Data from BAH's most likely scenario, the base case, are summarized as follows, using NU's discount rate and allocation factors where applicable (thousands of 1992 dollars).

BAH ANALYSIS

	CL&P	UI
Energy Expense	$89,799	($29,693)
Seabrook O&M	No substantive differences with NU	
Peak Load Diversity	31,186	(2,702)
A&G	39,000*	---
Fossil Steam Unit Availability	No substantive differences with NU	

*Based on a reduction in A&G staffing levels equivalent to 30% of PSNH staff as indicated on page II-20 of 9/3/91 BAH Report

BAH also provided projections of synergies for a high case and a low case, in addition to the base case. BAH estimated real CNPV savings, in 1991 dollars, to CL&P from the merger synergies to range from $95 million to $309 million, of which $47 million to $177 million would be realized during the first 10 years. 9/3/91 BAH Report, p. II-8. Under BAH's base case, annual real savings, in 1991 dollars, to CL&P residential customers are estimated to begin at $3 to $4 per customer, increasing to about $6 by the year 2000 and thereafter.

The merger also offers other less easily quantified benefits. First, the merger would provide the NU system with a more diversified generation mix, enabling NU to exercise a wider range of options during times of uncertainty and volatile fuel prices. The takeover would also resolve the uncertainty surrounding the ownership of PSNH and its Seabrook asset, which benefits both CL&P and UI. Since PSNH is a joint owner with NU of Millstone Unit 3 and Maine Yankee, the resolution of the bankruptcy would reduce the uncertainty surrounding the support of these other nuclear assets. Although individually each of these benefits to CL&P may not be significant or easily quantifiable, together they represent a lower rather than greater business risk to the NU system and to CL&P. The merger, if consummated, would represent a regional solution to a regional problem and probably the final chapter of the Seabrook saga.

1. Energy Synergies

The major difference between NU and the auditor is the energy expense synergy projection. Approximately 80% of this difference is due to NU's revised methodology, which the Company

claims captures additional savings from what it calls "day-to-day" circumstances. The computer model used by BAH does not capture these circumstances, such as sometimes overlapping unplanned outages at two or more units. At such times, the projected joint dispatch energy expense savings increase. While there are many factors that can determine the amount of energy expense savings, including, most significantly, the price of fossil fuels, the Authority believes that the evidence and testimony show NU's revised methodology to be reasonable and valid and that the additional savings projected have a reasonable chance of being obtained.

Another reason for the difference in energy synergy projections between NU and BAH is that NU ignores the effect of capacity transfers (exchanges of capacity between the initial system and PSNH, see Section III, E., infra) entirely, with the understanding that the failure to capture the economic benefits to CL&P from the transfers is offset by the higher energy expense savings. NU estimates net benefits to CL&P of the capacity transfers to PSNH at approximately $12 million. In its September 3, 1991 Report, BAH does not separately compute the capacity transfer benefits in its determination of the acquisition benefit to CL&P, and indicates that those benefits depend on the relative load growth between the two systems, NU's other off-system sales, and fuel costs.

While the savings in perpetuity may be overestimated by NU, are sensitive to changes in fuel price, capacity mix, and outages, and while long-term estimates of the energy synergy may be problematic because both NU and PSNH may build or purchase new energy capacity, the data and testimony presented indicate that NU's approach is reasonable and is a better representation than BAH's analysis of the long-term value of the energy synergy.

2. Peak Load Diversity Synergies

With respect to the peak load diversity synergy projections, the difference between BAH and NU (approximately $2 million) is due to the slightly more pessimistic view taken by NU. While BAH believes that load growth in other New England utilities will create a market for CL&P's share of 62 MW by 2001, NU does not project a significant market for capacity from the NU/PSNH system until 2002. In quantifying the capacity savings, NU has anticipated a continuation of historic weather patterns, and has assumed that the net capacity value in 2002 is $123/kW-year. BAH used the historical average of the peak load diversity projected into the future, which captures weather variation, but does not incorporate the differences in load growth between NU/PSNH and NEPOOL.

3. Administrative & General Synergies

Regarding the A&G synergy estimates, BAH assumes A&G staffing levels could be reduced in the merger by the equivalent of only 30% of the PSNH staffing levels, rather than the 50% reflected in NU projections. BAH bases its estimate on its

experience with other mergers. NU has provided a company-specific analysis based on its 1992 budget process and believes that an in-depth, bottoms-up or one-on-one analysis would provide a more refined estimate of the A&G Expense Synergy. NU subsequently provided a plan to achieve A&G expense savings. The plan, part of the 1992-1996 budget process, identified and captured the merger savings in the budget. The Authority has analyzed the data and testimony provided and has determined that the Merger Plan is reasonable and appropriate and that the projected savings of $74.1 million on a CNPV basis can in fact be obtained.

4. Conclusion on Synergy Savings

NU data indicate that benefits from the merger will also accrue to UI and its customers. The lower Seabrook O&M costs will be partially offset by the reallocation among other NEPOOL participants, including UI, of the Energy Expense and Peak Load Diversity Synergies. However, the net UI savings, which approximate $38 million, are still material (see NU data above). Data provided by BAH with respect to the Seabrook O&M Synergy for UI indicate no substantive difference from NU (see BAH analysis above).

Based on the evidence provided with respect to the synergies, the Authority must conclude that although the precise level of savings to result from the acquisition remains difficult to quantify because of the many variables and uncertainties, there is little doubt that Connecticut is likely to enjoy benefits in the range of $120-$350 million from the combination of the NU and PSNH systems under all reasonable assumptions.

C. Risk Reducing Mechanisms Related to the Synergies

The Authority believes that any decision approving the merger can be justified only if such approval is conditioned upon certain safeguards designed to protect Connecticut's ratepayers from the risks associated with the merger. Accordingly, the Authority bases its decision in this proceeding upon certain conditions to be fully discussed herein, designed to reduce risk of harm to Connecticut ratepayers.

First, certain conditions are necessary to address the A&G synergy and related complexity. One such condition ensures that A&G cost savings materialize (i.e., that these costs decrease as much as expected) and ensures that CL&P ratepayers receive their share of the projected benefits.

BAH, in its 10/10/91 Supplemental Report, refined its A&G/O&M Condition 4, which seeks to ensure that these synergies occur. The Authority, based on its analysis of the evidence and testimony presented, believes that reasonable risk-reducing mechanisms should be imposed, and that they be practical and workable, as well as fully cost effective. To address the

problems of cost allocations and methodology, the Department will continue its audit of NUSCO charges as indicated in the August 1, 1991, Decision in Docket No. 90-12-03, Application of The Connecticut Light and Power Company to Amend Rate Schedules. As has been the practice, the OCC is welcome to join the Department's audit. Also as indicated in the Decision in Docket No. 90-12-03, the Authority will address the allocation of NUSCO charges in subsequent rate proceedings.

Section 16-19c(b) of the Conn. Gen. Stat. empowers the Department to audit NUSCO A&G costs allocated to CL&P. The Authority is well aware of the impact of NUSCO allocations on CL&P ratepayers and will continue its vigorous examination of these charges for propriety and validity. To facilitate future audits of NUSCO, the Authority will require that NUSCO file detailed annual reports of all direct and allocated A&G, O&M, and NUSCO charges billed to each of the subsidiaries.

Regarding the A&G savings, BAH recommended that the Department condition the merger so that, to the extent that annual synergies are less than 50% of the amount projected in the Merger Plan (total CNPV of approximately $74 million), the Department may reduce rates by the difference between the 50% and actual savings (Condition 4(d)). As indicated in Section III., B., 3., supra, the Authority is confident that the projected level of A&G synergies can be obtained; therefore, ratepayers should receive at least 50% of that amount. Requiring such a commitment from CL&P is reasonable, considering the potential for further savings based on our analysis of the updated Merger Plan. The Authority, therefore, modifies BAH Condition 4(d) to state that the Department intends to reduce rates to reflect at least the 50% synergy savings. Future CL&P rate applications will include at least 50% of the A&G synergy savings projected for the ratemaking period, or the actual amount of savings if greater than 50%. This condition will continue at least through the end of the New Hampshire fixed rate period (7 years, through 1997), and until the Department determines otherwise, but no longer than the ten year term of the Sharing Agreement. To resolve problems with measuring the savings, parties and the Department will meet within 60 days after the merger is approved.

BAH, in its September 3, 1991 Report, observed that a cap on Seabrook costs could raise a substantial safety concern for the Nuclear Regulatory Commission ("NRC"), which has yet to issue a final ruling on the merger. BAH 9/3/91 Report, p. V-11. Also, the NRC has strongly emphasized that the transition of Seabrook's operation to NU must continue the priority of safety over cost considerations. Attachment to Response to Interrogatory OCC-28, Summary of Meeting with NRC. The Authority concurs with the NRC and, therefore, we will not require any guarantees of the Seabrook O&M savings.

D. Off-System Capacity Sales

The Authority is concerned that the fixed rate period under the Rate Agreement creates incentives for the merged NU system to favor off-system capacity sales from PSNH over those from CL&P because PSNH capacity sales inure to the benefit of shareholders. Because revenues from CL&P capacity sales are used to reduce retail rates, CL&P ratepayers could be harmed by such incentives. Both BAH and NU recognize the existence of such an incentive. 9/3/91 BAH Report, p. E-16; Sabatino Testimony, 9/91, p. 10. BAH recommended that for the period after PSNH acquisition and during the fixed rate period of the Rate Agreement, off-system capacity sales benefits for CL&P ratemaking purposes be based on apportioned NU systemwide off-system capacity sales. 10/10/91 BAH Supplemental Report, Condition 5. BAH filed a formula to implement this apportionment on October 31, 1991. CL&P filed comments on the BAH formula, in which it generally agreed with the implementation proposal; however, CL&P recommended that final accounting treatment details could (and should) be deferred to another forum. CL&P Comments, 11/1/91, p. 9.

The Authority believes that Condition 5 represents a reasonable and necessary offset to the PSNH capacity sales incentive identified above and the economic risks it imposes on CL&P. The Authority agrees with CL&P that the mechanisms for incorporating this condition into CL&P ratemaking are more appropriately considered in the Company's next general rate proceeding.

E. Capacity Interchanges

The Sharing Agreement and its attached Capacity Transfer Agreements are among the numerous Agreements entered into by NU as integral parts of the Merger Plan. These ten-year Agreements provide details on the types and prices of any capacity purchases or sales (interchanges) between the existing (initial) NU system and PSNH. Due to the locked-in nature of the capacity and price provisions of these Agreements over such an extended time frame, the Authority is concerned that conditions could develop within the region that would make NU transactions under these Agreements uneconomic. For example, CL&P could be providing capacity to PSNH to fulfill the terms of the Capacity Transfer Agreements, while it has to purchase or generate more expensive power to meet its own needs.

The Authority believes that the probable net benefits to CL&P ratepayers from the Sharing Agreement, some $93 million to $174 million, are sufficient to outweigh the risks of possible uneconomic exchanges under the Capacity Transfer Agreements. Exhibit FPS-5R+8R. To address the potential problem of other uneconomic transactions, BAH recommends that the Authority condition its approval of the Merger Plan on NU's agreement to prior approval or prudence review by the Department of any power supply decisions other than those under the Capacity Transfer

Agreements. BAH 10/10/91 Supplemental Report, Condition 7, pp. 27-29. The Department regularly conducts prudence reviews of capacity sales and purchases prospectively in the biennial, integrated resource plan filings required under § 16-243a-2 of the Regulations of Connecticut State Agencies. After-the-fact prudence reviews are standard in Company rate proceedings to assure net benefit to ratepayers. These standard reviews, coupled with the projected overall net benefit result of the Sharing Agreement, support the determination that the Sharing Agreement is reasonable, obviating the need for subsequent reviews of individual transactions prior to their execution.

BAH also recommends the Department's prior review of any filing with federal authorities for changes in, or extensions of, the Sharing Agreement or the Capacity Transfer Agreements. Condition 6, BAH Supplemental Report, 10/10/91, p. 26. CL&P has agreed to notify the Department of any proposed modification or extension of these Agreements at least ninety days prior to the effective date of such action. Sabatino Testimony, 9/91, p. 24. CL&P has also agreed to provide the Department with a copy of any proposed changes or extensions at least thirty days prior to any such filing with FERC. Sabatino Testimony, 9/91, p. 24. Further, CL&P has committed to support the Department's participation in any FERC proceeding related to these Agreements. Sabatino Testimony, 9/91, p. 24. The Authority believes that 30 days is inadequate for Department review and take possible action; therefore, we will require CL&P to file proposed changes or extensions at least 90 days prior to filing at FERC.

F. Business and Financial Risk

As discussed in Section III., B., supra, the merger of PSNH into the NU system has several quantifiable benefits that stem from consolidating diversified operations. These savings have the effect of lowering the business risk to the NU system and its subsidiaries, including CL&P, all other factors remaining equal.

While business risk can be reduced for a company through diversification (as in this case), much of that risk reduction only mirrors the risk reduction that investors achieve through diversified investments. As such, it has minimal impact on the cost of capital to the company and little benefit to ratepayers. The Merger Plan also poses certain risks and costs. The primary risk is financial and stems from the increasingly leveraged position of NU as it undertakes the merger and the weak earnings of the PSNH subsidiary during the first few years of the merger. Both of these occurrences place additional, though indirect, financial stress on CL&P and may hinder its access to the financial markets and distort its cost of debt and/or equity. Since CL&P is dependent on NU for infusions of equity, a merger that leaves NU financially weak and saturates the market with NU common equity jeopardizes CL&P's access to equity.

In addition to financial risk, the merger has certain aspects that will contribute to the business risk of NU in the near future. As a merged entity, the PSNH subsidiary is restricted in the degree and manner of rate relief it can achieve by virtue of the Rate Agreement. This Agreement awards PSNH fixed rate increases regardless of the company's actual operating results. The risk that the granted increases will be insufficient is partially offset by an adjustment clause flow-through to customers of certain expenses and a "floor" and "ceiling" to earnings. In addition, the ability of the merged system to achieve the projected synergies and savings is uncertain and contributes to the business risk of the entire system.

The very real possibility exists that the financial markets will perceive the NU holding company as a different, more risky, entity than CL&P by virtue of the holding company's more leveraged position and the initial, additional business risk of the merged system. Assuming the merger takes place, it may no longer be appropriate to use the NU holding company as a proxy for CL&P for the purpose of determining the cost of equity for ratemaking purposes. Not only might the degree of leveraging differ between the two entities, but the market perception of business risk might differ as well. It is reasonable to assume that the weakened financial condition of the parent may have an impact on the bond ratings and debt costs of CL&P. The financial condition and risk of the parent may have important repercussions on the market's perception of the ability of CL&P to support its debt obligations. It is not appropriate for CL&P ratepayers to incur capital costs that reflect the additional leveraging and business risk associated with NU's acquisition of the PSNH system.

The potential financial risks of the merger to CL&P must be understood in view of the level of forecasted PSNH revenues over the fixed rate period. During this period, large increases in costs can only be accommodated through increases in PSNH sales. NU and BAH developed two different forecasts that resulted in a significant disparity in projected PSNH sales. BAH forecasts relied heavily on the NEPOOL Forecast Report of Capacity, Energy, Loads and Transmission 1991-2006 (CELT Report). NU based its analysis on the 1991 PSNH Forecast Late Filed Exhibit No. 2-21. NU was highly critical of the accuracy of the CELT Report, arguing that it consistently underforecasted PSNH load growth. BGB Testimony, 9/91, pp. 9-13; TR 10/22/91, pp. 196-199. However, a closer look at the PSNH forecasts relied upon by NU since 1989 indicates that these forecasts have consistently overestimated load growth. In addition, the PSNH forecast does not reflect the full effect of the current recession on New England, in that it assumes a lower level of unemployment than actual as well as improved economic conditions by December 31, 1991. Late Filed Exhibit Nos. 2-21 and 2-22.

The Authority also questions the PSNH disregard of the potential impact of conservation and load management programs and the potential loss of load from customers that choose to

self-generate. The Authority finds the 1991 Forecast assumption that a PSNH annual conservation budget exceeding $1 million would have absolutely no impact on PSNH sales during the fixed rate period to be unreasonable. Exhibit BGB 7R, p. II-8.

The BAH forecast outlines key assumptions of its high, medium, low and shock scenarios. 9/3/91 BAH Report, p. IV-4F. A comparison of sales growth rates suggests that BAH's "high" PSNH sales growth rate corresponds to the baseline growth rate in the 1991 PSNH Forecast. BAH's average sales growth rates were negative for the years 1990-95 in the BAH "low" and "shock" cases, becoming positive for the years 1996-2000. Under the "low" case assumptions, NU earnings per share (EPS) would drop and could put pressure on CL&P to increase its payout ratio (percent of earnings paid to the parent company, NU, as dividends), although coverage ratios (the degree to which pretax earnings are sufficient to make interest payments on debt) would remain adequate. In the "shock" case, NU earnings would be insufficient to maintain current dividends, which would create financial pressures on CL&P to make up a portion of the reduced earnings. Possible consequences to CL&P would be increased payout and leverage ratios, and a higher indicated equity cost (due to lower NU share price).

Although the assumptions contained in the "low" and "shock" cases are pessimistic and the "shock" scenario is very unlikely to occur, these forecasts are useful in illustrating the financial viability of the merger if economic conditions in New England remain unfavorable or worsen. The BAH range of forecasts is highly useful in evaluating the sensitivity of the financial consequences of the merger to changes in economic circumstances, especially since NU presented only a "baseline" forecast for PSNH and the initial NU system. The BAH analysis shows that the merger would still result in cumulative net present value benefits of $95 million under its less optimistic "low" synergies assumptions. 9/3/91 BAH Report, p. II-6F. BAH did not evaluate the benefits under the shock scenario, but used that scenario to test the financial viability of the merger.

The uncertainty surrounding the actual outcome of sales and the performance of the merged system, and the real possibility that CL&P will be exposed to additional financial and business risk under the most likely scenarios mandate safeguards to protect Connecticut ratepayers. BAH's multipart Condition 3 addresses the financial repercussions of the merger, and the Authority finds that two parts of that condition, those that are not already provided by Department regulations or State statutes, are necessary to insulate CL&P ratepayers from the potential effects of the merger.

One part of Condition 3 would limit CL&P's equity ratio to no less than 37%, unless the Authority was notified of such an occurrence or pending occurrence. The measured ratio would exclude short-term debt from the total capitalization measure, except that amount in excess of 10% of the total. This would

allow the Company to have as little as 34% equity in the total structure, including short-term debt. The Company expressed concern that an equity ratio of 37% would restrict its near term flexibility, since its equity ratio is already below 38%. In addition, a 37% equity ratio is more than sufficient to safeguard CL&P's financial health. The Company suggested 34% as the minimum level. TR 10/21/91, pp. 46, 61-68.

The Authority will adopt the BAH condition with three modifications: 1) CL&P's minimum equity level will be set at 36%, 2) for purposes of this condition, the total capital structure will exclude short-term debt except that amount in excess of 7% of total capitalization, and 3) breach of the 36% minimum will cause the Department to take certain steps to safeguard CL&P's financial health. The Authority finds that such a modified condition provides more initial financial flexibility for NU (relative to the 37%), yet excluding less short-term debt from the capital structure calculation provides the same level of protection as the original BAH condition. Further, the 36% level is consistent with the Department's March 4, 1992, Decision in Docket No. 91-01-07, Application of The Connecticut Light and Power Company to Issue First and Refunding Mortgage Bonds and Preferred Stock. The Department addressed the issue of capital structure in that Decision and ordered CL&P to submit with its next rate application a detailed study of the appropriate degree of leverage for a company of CL&P's business risk. As part of the study, the Company is to provide specific steps to achieve the proposed appropriate leveraging by June 30, 1995. Decision, p. 9. Regarding CL&P's suggested equity ratio of 34%, the Authority finds this to represent too weak a financial position to be much of a safeguard.

In adopting this condition, the Authority will not limit the upstreaming of CL&P dividends to NU (payment of CL&P earnings to NU in the form of dividends). While this approach of protecting CL&P was explored on the record, the Authority believes that the Company is already limited in the amount of dividends it can upstream by CL&P's earnings and indenture covenants on retained earnings. TR 10/21/91, pp. 162-168, 225-237; Late Filed Exhibit No. 2-5. The Authority is persuaded by the Company that such a move would be viewed as unduly adverse by the financial markets. The BAH condition on equity level, as modified, should give NU enough flexibility and control over CL&P's dividends to keep the financial community satisfied while safeguarding CL&P's financial health.

The Authority will further condition its approval of the merger by reserving the right to choose those proxies it determines appropriate as the basis for setting allowed returns on equity and for determining debt costs for the Company for ratemaking purposes. A Company witness agreed that, with proper support in litigated proceedings, this was the Authority's prerogative and pledged that the Company would not challenge reductions to the CL&P indicated market cost of debt under

certain circumstances (e.g., in the event CL&P's bond ratings are downgraded after the merger by at least two of the three major rating agencies). TR 10/21/91, pp. 43-44; TR 10/24/91, pp. 60-65.

In attaching this condition to the merger, the Authority modifies Condition 3(d) advanced by BAH, and accepted by the Company, by expanding upon the limited occurrences that BAH proposes to allow the Authority to modify or adjust CL&P's indicated debt costs for ratemaking purposes. The BAH limitations do not recognize that it is fully possible for debt costs to be unreasonably affected by the merger without CL&P bond ratings being downgraded post-merger.

The Authority will continue to hold CL&P to the above three conditions until such time as the PSNH subsidiary is no longer under the fixed Rate Agreement (i.e., is back to rate base ratemaking) and has an investment grade bond rating from at least two of the three major rating agencies.

G. New Hampshire Electric Cooperative Matters

NHEC, one of PSNH's largest wholesale customers, has sought an alternative power supplier, despite being under a power contract with PSNH. NHEC signed a contract with New England Power Company ("NEP") on January 29, 1991, allegedly in violation of its contract with PSNH. FERC accepted NHEC's contract with NEP on March 28, 1991, but suspended its effectiveness pending a determination as to whether, and to what extent, NHEC's contact with PSNH precluded it from taking power from NEP. Matters were complicated when NHEC filed for bankruptcy on May 6, 1991, and its future as a wholesale customer of PSNH will, therefore, remain uncertain until it emerges from its Chapter 11 proceeding. Supplemental Response to Interrogatories OCC-21 and 23.

The Company presented evidence that loss of the NHEC load, while detrimental to PSNH and the combined NU/PSNH System, would have the offsetting benefit of increased energy expense savings for CL&P because more of PSNH's inexpensive units would be available to be dispatched to meet CL&P's load. Noyes Supplemental Testimony, p. 15.

Data were also provided by BAH regarding the impact of losing the NHEC load on PSNH and on NU and CL&P. Response to Interrogatory AG-3, filed under Protective Order. These data, which analyze the loss of this load in the base, high and low cases, were updated to reflect a 1992 acquisition date and a current estimate of 1991 sales. Supplemental Response to Interrogatory AG-3, filed under Protective Order. The update focuses on the financial consequences of losing NHEC in the low case, and concludes that CL&P ratepayers would be sufficiently insulated from the adverse consequences of the loss of the NHEC load.

NHEC represents approximately 8% of the PSNH load. Although more of the lost revenues attributable to the loss of this load would be allocated to NU shareholders rather than PSNH ratepayers in the low case, NU would be able to implement its current financing plan with only slight adjustment. Therefore, the Authority agrees with BAH's conclusion that CL&P would be protected from the consequences relating to loss of the NHEC load.

In addition, PSNH has lessened the risk that it will lose the NHEC load anytime soon by entering into a proposed agreement with NHEC and the State of New Hampshire. The proposed agreement would provide for a full resolution and settlement of the disputes between NHEC and PSNH and forms the basis for moving NHEC out of bankruptcy. Under the proposed agreement, NHEC would continue to purchase most of its wholesale power requirements from PSNH under a new long-term contract that values PSNH's approximately 36% share of Seabrook at $700 million. The contract would run at least until November 1, 2006, and could be extended by NHEC to November 1, 2011, with advance notice. Supplemental Response to Interrogatories EL-21 and 23. This proposed agreement is subject to the approval of the Bankruptcy Court, the New Hampshire Public Utilities Commission and FERC.

H. FERC Opinions 364 and 364-A

NU needs the approval of FERC, inter alia, prior to consummating the merger. On August 9, 1991, FERC issued Opinion 364 approving the proposed merger, but imposing a number of conditions on the merged system's use and expansion of its transmission network. A number of these conditions would have left a post-merger NU and CL&P unable to protect their native load customers from the uneconomic use of the network and/or insufficient compensation for network use or expansion.

A number of parties to the FERC proceeding, including NU and the State of Connecticut, appealed Opinion 364. Upon rehearing, FERC modified and clarified its conditioned approval in Opinion 364-A. Opinion 364-A alleviates much of the concern the Department and others had with Opinion 364 with regard to NU's and CL&P's ability to protect native load customers. Opinion 364-A appears to allow NU and CL&P to charge third party users of the transmission network the value of lost opportunities their use imposes on native load customers. Such an allowance would maintain NU's and CL&P's ability to use and benefit from the transmission network after the proposed merger. NU represented during the instant proceedings that FERC had indeed granted this allowance.

BAH reviewed Opinions 364 and 364-A and filed comments and recommendations thereon. BAH Supplemental Report 2/18/92. The primary concerns of BAH are that Opinion 364-A could be changed upon appeal and that FERC may not allow all appropriate opportunity and/or incremental costs in NU's future transmission

tariffs. This latter concern stems from FERC's decision to leave for future compliance tariff filings the determination of specific costs appropriate for recovery by NU. BAH believes that due diligence by NU in proceedings before FERC will gain the Company appropriate compensation and NU confirmed and supported this representation.

To guard against the risk to ratepayers that Opinion 364-A could be changed upon appeal, BAH proposes that the Merger Plan be conditioned such that costs stemming from changes to the Opinion, to the extent that they are merger related and in excess of the net benefits of the merger, be excluded from recovery through retail rates. While the Authority believes that such a "hold harmless" condition is appropriate for transmission benefits, the BAH proposed condition does not reserve for ratepayers any potential merger benefits (e.g., those resulting from the A&G synergies) should there be an adverse change to Opinion 364-A. The BAH condition limits the impact of such a change to Opinion 364-A, but allows increased risk to ratepayers that the merger will ultimately not benefit them. As discussed throughout this analysis, the proposed merger is not without risks to Connecticut ratepayers, even absent the transmission risks. As such, it is necessary that ratepayers benefit from the proposed merger. If ratepayers are truly insulated from transmission risk, an adverse occurrence in this area should not wipe out all the benefits of the proposed merger in the non-transmission area.

The Authority has relied on FERC Opinion 364-A and NU's interpretation of it in analyzing the Merger Plan. The risk that Opinion 364-A may be modified on rehearing or judicial review, or that NU's interpretation of the order may be determined by FERC or the courts to be incorrect, must rest with NU and its shareholders, not CL&P ratepayers. The Department will determine in future CL&P rate proceedings the extent of any disallowance of costs resulting from an adverse change to Opinion 364-A, taking into account as an offset the net benefit to CL&P ratepayers shown by CL&P to be attributable to the merger; however, in no event will more than half of the demonstrated cumulative net benefits be used as an offset. An adverse change will not necessarily include achieving certain different results, such as a lower FERC-allowed return on equity, than requested.

I. Clean Air Act Amendment Allowances

During the course of the hearings the Department raised the concern that sulfur dioxide emission allowances awarded to CL&P for the year 2000 and beyond under the Clean Air Act Amendments of 1990 ("CAAA") might be jeopardized or less than fairly compensated for under the merger. TR 10/22/91, pp. 83-124. BAH introduced two conditions to address this concern:

1. The benefits of any allowances that will be provided to CL&P under the CAAA will be allocated to CL&P.

2. CL&P agrees to provide for Department review prior to implementation any plan or policy that would govern the sale or transfer of CL&P allowances to PSNH. See Late Filed Exhibit No. 2-19.

The Authority believes these conditions will adequately protect CL&P ratepayers vis a vis the CAAA, and will adopt them.

IV. FINDINGS OF FACT

1. Connecticut will benefit from the combination of the NU and PSNH systems under all reasonable assumptions.

2. Certain conditions are necessary to ensure that A&G costs do not increase due to the merger and to ensure that CL&P ratepayers receive their share of the projected benefits.

3. The fixed rate period under the Rate Agreement creates incentives for NU to favor PSNH off-system capacity sales over those of CL&P.

4. Conditions could develop within the region that would make NU transactions under the Capacity Transfer Agreements uneconomic.

5. The probable net benefits to CL&P ratepayers from the Sharing Agreement are sufficient to outweigh the risks of possible uneconomic capacity exchanges.

6. Without proper conditions, the proposed merger could have an impact on the indicated debt and equity costs of CL&P.

7. Without proper conditions, the proposed merger could lead to increased financial and business risk to the NU holding company and indirectly to the CL&P subsidiary.

8. The loss of the NHEC load by PSNH, while adversely affecting NU shareholders, would be unlikely to be detrimental to Connecticut ratepayers.

9. FERC Opinion 364-A provides NU and CL&P with the opportunity to gain sufficient compensation for the use of their transmission system and preserves their ability to protect native load customers, if interpreted as represented by NU in this proceeding.

10. FERC Opinion 364-A is the subject of rehearing petitions and court appeals. It could be modified to the detriment of Connecticut ratepayers.

11. Post merger, CL&P might not be properly compensated for sulfur dioxide emission allowances it is granted under the CAAA.

V. CONCLUSIONS AND ORDERS

A. Conclusions

Based on the evidence presented, the Authority concludes that the benefits to Connecticut ratepayers of the merger between NU and PSNH outweigh the risks and approval of the merger, subject to the conditions set forth herein as reflected in the Orders below, is in the public interest. The Authority is mindful that uncertainty remains regarding actions in other forums, particularly the New Hampshire legislature, the Nuclear Regulatory Commission, the Securities and Exchange Commission, and the federal courts petitioned to review the FERC Opinion 364-A. The Authority has an obligation to act in what should be an orderly regulatory and legal process, but a process in which it is not possible to foretell every outcome. The Authority believes that the conditions we have attached to the merger, as manifested in the Orders, provide reasonable protection for Connecticut ratepayers against all known risks.

The Authority further grants final approval of the issuance of step-two securities and the implementation of all other step-two transactions by Public Service Company of New Hampshire, as requested in Docket No. 90-07-25. The terms and conditions of the approval granted herein for the step-two financings must be in conformity with the Third Amended Joint Plan of Reorganization confirmed April 20, 1990, by the United States Bankruptcy Court for the District of New Hampshire and with the terms and conditions set forth in the Order dated July 20, 1990, of the New Hampshire Public Utilities Commission and any Supplemental Order thereto.

B. Orders

In the event that PSNH is merged with NU as approved in Section V., A., supra, the following Orders will apply. Please submit an original and ten copies of the requested material, identified by Docket Number, Title and Order Number to the Executive Secretary.

1. Beginning May 31, 1992, and annually thereafter, NUSCO shall file with the Department detailed reports of all direct and allocated A&G, O&M and NUSCO charges billed to each of the subsidiaries.

2. In each future rate application, CL&P shall incorporate at least 50% of the A&G synergy savings projected for the ratemaking period, or the actual amount of savings if greater than 50%. The Company shall also provide a report on the amount of actual O&M savings. This Order shall continue at least through the end of the fixed rate period (7 years, through 1997), and until the Department determines otherwise, but no longer than the ten year term of the Sharing Agreement. Further, no later than June 1, 1992, the Company shall request that the Department

schedule a technical meeting to discuss the means of measuring A&G and O&M savings. The expense of tracking the savings will be considered in future rate applications, as would any other proposed expense.

3. For the period after the PSNH acquisition and during the fixed rate period of the Rate Agreement, CL&P shall determine off-system capacity sale benefits for ratemaking purposes based on apportioned NU systemwide off-system capacity sales using the formula filed by BAH on October 31, 1991 (Condition 5), as clarified by NU's Comments of November 1, 1991.

4. CL&P shall file testimony with its next rate application on the mechanisms for incorporating Condition 5 into ratemaking.

5. CL&P shall file with the Department, for its review and possible action, a copy of any changes to or extensions of the Sharing Agreement or Capacity Transfer Agreements at least ninety days prior to filing at FERC.

6. CL&P will, at all times, commit its best efforts to maintain a 36% equity ratio (as described in a) below). If, at any time, CL&P:

   a) projects that the ratio (expressed as a percentage) of CL&P's Common Equity to Total Capitalization, as defined below, as of the end of the next fiscal quarter will be below 36%, or

   b) plans to take any action that will result or can reasonably be expected to result in reducing the above ratio below 36 percent,

   then CL&P will notify the Department in writing at least forty-five days before such action is taken or event is anticipated to occur and will provide a certificate showing the calculation in reasonable detail.

In monitoring this Order, and at its discretion, the Department may conduct proceedings to review the ratio, the effect of CL&P's payment of dividends to NU on CL&P's financial condition, and whether CL&P's ratio will have been adversely affected by this merger. If the Department initiates such a proceeding, it will do so within ten days after its receipt of CL&P's notice and complete it no later than thirty days after receipt of CL&P's notice.

For purposes of this Order and Order Nos. 7 and 8, the following definitions apply:

Common Equity - an amount equal to the sum of the aggregate of the par value of, or stated capital represented by, the

outstanding shares of common stock of CL&P and its subsidiaries, and the surplus, paid-in, earned and other, if any, of CL&P and its subsidiaries.

Total Capitalization - the aggregate of all amounts that would appear on CL&P's balance sheet as the sum of:

(i) the total principal amount of all long-term indebtedness of CL&P and its subsidiaries (excluding, however, indebtedness (not to exceed $320,000,000) existing under any nuclear fuel financing so long as the proceeds of such indebtedness are used solely to finance the purchase and carrying of nuclear fuel),

(ii) the aggregate of the par value of, or stated capital represented by, the outstanding shares of all classes of capital stock of all classes of common and preferred shares, of CL&P and its subsidiaries,

(iii) the surplus of CL&P and its subsidiaries, paid-in, earned and other, if any, and

(iv) the aggregate unpaid principal amount of all short-term indebtedness of CL&P and its subsidiaries over 7% of the sum of clauses (i), (ii), and (iii) above.

Indebtedness - means, without duplication:

(i) indebtedness for borrowed money or for the deferred purchase price of property or services (excluding any obligation of CL&P to the United States Department of Energy or its successor with respect to disposition of spent nuclear fuel burned prior to April 3, 1983),

(ii) obligations as lessee under leases which shall have been or should be, in accordance with GAAP, recorded as capital leases,

(iii) obligations under direct or indirect guaranties in respect of, and obligations (contingent or otherwise) to purchase or otherwise acquire, or otherwise assure a creditor against loss in respect of, indebtedness or obligations of others of the kinds referred to in (i) or (ii) above,

(iv) liabilities in respect of unfunded vested benefits under plans covered by Title IV of ERISA.

This Order shall remain in effect as indicated in Order No. 8, infra.

7. In future rate cases, if the Department so chooses, CL&P will accept the following basis for determining the cost of capital:

   a) adjustment of the cost of debt issued since the prior rate proceeding, for retail ratemaking purposes, using appropriate debt cost at the time of the issuances, should the Department find that CL&P debt costs are unduly influenced by NU's merger with PSNH, and

   b) developing CL&P's ROE on that of comparable companies rather than on NU's cost of common equity.

This Order shall remain in effect as indicated in Order No. 8, infra.

8. Order Nos. 6 and 7 will terminate no earlier than one year after the seven-year fixed rate period specified for PSNH in the Rate Agreement and, subject to effectiveness provisions set forth below, when CL&P files with the Department a certificate that demonstrates that:

   a) the ratio (expressed as a percentage) of PSNH's Common Equity to Total Capitalization as of the end of the most recent fiscal quarter, calculated in accordance with GAAP, and determined with reference to the audited financial statements included in PSNH's Annual Report on Form 10-K or Quarterly Report on Form 10-Q, filed with the Securities and Exchange Commission, or any other applicable report (a copy of the 10-K, 10-Q or other applicable report shall be attached to such certificate), is equal to or greater than 30 percent, and

   b) PSNH's first mortgage bonds have been assigned investment grade ratings by at least two nationally recognized statistical rating organizations. For purposes of this certificate, ratings shall be deemed to be investment grade if they meet the standards specified in Form S-3 under the Securities Act of 1933.

Further, these orders shall terminate thirty days after CL&P files such a certificate with the Department, provided that, if before that time the Department notifies CL&P that its review of the certificate indicates that the conditions to termination are not, or may not be, fulfilled, the effectiveness of such termination shall be suspended for such time not more than 45 days, as the Department shall specify in its notification. The Department may conduct technical discussions or hearings, but shall rule whether or not to accept the certificate within 45 days from the notification of suspension. The certificate is ineffective if the Department does not accept it.

9. The benefits of any allowances that will be provided to CL&P under the CAAA shall be allocated to CL&P. Further, CL&P shall provide for Department review, prior to implementation, any plan or policy that would govern the sale or transfer of CL&P CAAA allowances to PSNH.

10. In all subsequent rate proceedings, CL&P shall detail and quantify the net cumulative cost to date and through the rate year of any changes or modifications to or adverse interpretations of FERC Opinion 364-A as they affect CL&P revenue requirements, and file this information with its application. These costs shall be excluded from the calculation of CL&P revenue requirements, except to the extent that CL&P can show that the merger with PSNH has provided net cumulative benefits to CL&P ratepayers. No more than half of these demonstrated cumulative net benefits will be used as an offset to the net cost of changes to FERC Opinion 364-A excluded from CL&P revenue requirements.

We hereby direct that notice of the foregoing be given by the Executive Secretary of this Department by forwarding true and correct copies of this document to parties in interest, and due return make.

Dated at New Britain, Connecticut, this 31st day of March, 1992.

Clifton A. Leonhardt)

Evan W. Woollacott) DEPARTMENT OF PUBLIC UTILITY CONTROL

Richard G. Patterson)

Michael J. Kenney)

State of Connecticut)
) ss. New Britain, March 31, 1992
County of Hartford)

I hereby certify that the foregoing is a true and correct copy of Decision, issued by the Department of Public Utility Control, State of Connecticut.

CERTIFICATE OF SERVICE

I further certify that where a date is inserted by the Department in the "Date Mailed" box below, a copy of the Decision was forwarded by Certified mail to all parties of record in this proceeding on the date indicated.

Date Mailed:

MAR 3 1 1992

Attest:

Robert J. Murphy
Executive Secretary
Department of Public Utility Control