

**CHAPTER 221**  
**SB 221-FN – FINAL VERSION**

03/26/2015 1026s  
03/26/2015 1124s  
3June2015... 1926h  
06/24/2015 2227EBA

2015 SESSION

15-0928  
06/05

SENATE BILL            ***221-FN***

AN ACT                relative to electric rate reduction financing.

SPONSORS:            Sen. Bradley, Dist 3

COMMITTEE:          Energy and Natural Resources

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AMENDED ANALYSIS

This bill permits the public utilities commission to issue finance orders that authorize the issuance of certain rate reduction bonds in accordance with the 2015 settlement proposal, or if the commission orders divestiture, regarding cost recovery of the Merrimack Station scrubber and divestiture of PSNH's remaining generation plants.

The bill also clarifies employee protections in the event of the divestiture or retirement of PSNH generation assets.

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Explanation:          Matter added to current law appears in ***bold italics***.  
                                Matter removed from current law appears [~~in brackets and struck through.~~]  
                                Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Fifteen*

AN ACT                    relative to electric rate reduction financing.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            221:1 New Paragraph; Electric Rate Reduction Financing and Commission Action; Findings and  
2 Purpose. Amend RSA 369-B:1 by inserting after paragraph XV the following new paragraph:

3            XVI. It is in the public interest for the commission to issue a finance order that is subject to  
4 the requirements of this chapter and that securitizes any stranded costs resulting from the  
5 divestiture of all or some of PSNH's generation assets, if the commission approves the 2015  
6 settlement proposal or otherwise orders divestiture of all or some of PSNH's generation assets.

7            221:2 Electric Rate Reduction Financing and Commission Action; Definitions; Rate Reduction  
8 Bonds. Amend RSA 369-B:2, X to read as follows:

9            X. "Rate reduction bonds" ("RRB") means bonds, notes, certificates of participation or  
10 beneficial interest, or other evidences of indebtedness or ownership, issued pursuant to an executed  
11 indenture or other agreement of a financing entity, in accordance with this chapter, 1999, 289:3, I  
12 and II, ~~and~~ **or** RSA 369-A, the proceeds of which are used, directly or indirectly, to provide, recover,  
13 finance, or refinance RRB costs, and which, directly or indirectly, are secured by, evidence ownership  
14 interests in, or are payable from, RRB property.

15            221:3 New Subparagraph; Electric Rate Reduction Financing and Commission Action;  
16 Definitions; RRB Costs. Amend RSA 369-B:2, XIV by inserting after subparagraph (f) the following  
17 new subparagraph:

18            (g) Expenditures incurred to implement the 2015 settlement proposal or other  
19 divestiture of all or some of PSNH's generation assets as ordered by the commission.

20            221:4 Electric Rate Reduction Financing and Commission Action. Amend RSA 369-B:2, XVI to  
21 read as follows:

22            XVI. "Security interest" means a security interest as defined in RSA 382-A:1-  
23 201[~~(37)~~](**b**)(**35**).

24            221:5 Electric Rate Reduction Financing and Commission Action; Definitions; Service Territory.  
25 Amend RSA 369-B:2, XVII to read as follows:

26            XVII. "Service territory" means, with respect to any electric utility, the geographic area  
27 established by the commission as the retail electric service territory of such electric utility, as such

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1 territory is depicted on the “Electric Utilities Franchise Areas” map issued by the commission, dated  
2 [~~July 1, 1993~~] **February 13, 2015**, together with any other geographic area in which such electric  
3 utility actually provided retail electric service on such date and any new geographic areas in which  
4 such electric utility is granted a franchise for the provision of retail electric service subsequent to  
5 such date.

6 221:6 New Paragraph; Electric Rate Reduction Financing and Commission Action; Definitions;  
7 2015

8 Settlement Proposal. Amend RSA 369-B:2 by inserting after paragraph XVII the following new  
9 paragraph:

10 XVIII. “2015 settlement proposal” means the “2015 Public Service Company of  
11 New Hampshire Restructuring and Rate Stabilization Agreement” reached by and between PSNH,  
12 the New Hampshire office of energy and planning, the New Hampshire consumer advocate, and any  
13 other settling parties in Dockets DE 11-250 and DE 14-238 before the commission regarding cost  
14 recovery of the Merrimack Station scrubber and divestiture of PSNH’s remaining generation plants.

15 221:7 Electric Rate Reduction Financing and Commission Action; Authority to Issue Finance  
16 Orders to Finance RRB Costs. Amend RSA 369-B:3, I to read as follows:

17 I. The commission is authorized, upon the petition of an electric utility and after a hearing,  
18 to issue one or more finance orders pursuant to which rate reduction bonds shall be issued, if the  
19 commission finds that the issuance of such finance order or finance orders is in the public interest as  
20 set forth in RSA 369-B:1, IX **or RSA369-B:1, XVI, as applicable**. Any finance order adopted  
21 pursuant to 1999, 289:3, I and II prior to the effective date of this chapter shall, following the  
22 effective date of this chapter, be deemed to be authorized by this chapter, provided the commission  
23 has made the required finding pursuant to RSA 369-B:3, IV(b).

24 221:8 Electric Rate Reduction Financing and Commission Action; Authority to Issue Finance  
25 Orders to Finance RRB Costs. Amend RSA 369-B:3, IV(b)(16) to read as follows:

26 (16) No finance order shall be final or effective until PSNH and NU have agreed to  
27 dismiss with prejudice on competition day PSNH’s and NU’s claims and causes of action in all  
28 pending litigation associated with the implementation of RSA 374-F, including civil action No. 97-97-  
29 JD (New Hampshire) / 97-121 L (Rhode Island)[-]; **and/or**

30 (c) **Authorize the issuance of rate reduction bonds in an amount sufficient to**  
31 **fund stranded costs, deferrals, transaction costs, tax liabilities, employee protections,**  
32 **payments in lieu of taxes, and other expenditures as contemplated in the 2015 settlement**  
33 **proposal, if approved by the commission, or if the commission orders divestiture of all or**  
34 **some of PSNH’s generation assets. The net benefits of accumulated deferred income taxes**  
35 **relating to amounts that will be recovered through any such issuance of rate reduction**  
36 **bonds shall be credited to retail customers by reducing the amount of such rate reduction**

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1 *bonds that would otherwise be issued by the net present value of the related tax cash flows,*  
2 *using a discount rate equal to the expected interest rate on such rate reduction bonds.*  
3 *This authorization is in addition to any amount authorized in subparagraph (a) or (b).*

4 221:9 Electric Rate Reduction Financing and Commission Action; Authority to Issue Finance  
5 Orders to Finance RRB Costs. Amend RSA 369-B:3, V to read as follows:

6 V. Any finance order that expressly states each and every one of the conditions as set forth  
7 in RSA 369-B:3, IV, *if any*, and finds that the finance order is consistent with all of these conditions,  
8 shall be deemed to satisfy the conditions and requirements of RSA 369-B:3, IV. If such finance order  
9 so satisfies the conditions, *if any*, and requirements of RSA 369-B:3, IV and satisfies the other  
10 requirements of this chapter, then such finance order shall be deemed to be authorized by, and  
11 issued pursuant to, this chapter.

12 221:10 Electric Rate Reduction Financing and Commission Action; Divestiture of PSNH  
13 Generation Assets. RSA 369-B:3-a is repealed and reenacted to read as follows:

14 369-B:3-a Divestiture of PSNH Generation Assets; Review of 2015 Settlement Proposal.

15 I. The general court finds that divestiture of PSNH's generation plants and securitization of  
16 any resulting stranded costs pursuant to RSA 369-B:3, IV(c) is in the public interest, subject to the  
17 provisions of paragraph III.

18 II. As part of an expedited proceeding, the commission shall review the 2015 settlement  
19 proposal and determine whether its terms and conditions are in the public interest.  
20 Notwithstanding RSA 374-F:3, VI, the commission may incorporate rate designs that fairly allocate  
21 the costs of divestiture of PSNH's generation plants among customer classes. As part of its review of  
22 the 2015 settlement proposal, the commission shall take into account the impact on all PSNH  
23 customer classes, and shall consider the impacts on the economy in PSNH's service territory, the  
24 ability to attract and retain employment across industries, and whether the proposed rate design  
25 fairly allocates the costs of divestiture of PSNH's generation plants among customer classes. The  
26 commission may approve or reject the 2015 settlement proposal, or condition its approval on any  
27 modification of the terms and conditions that it determines to be necessary to meet the public  
28 interest standard, so long as any order to divest provides for recovery of stranded costs and such  
29 other costs of divestiture as may be approved by the commission. If the commission conditions its  
30 approval, the settling parties may amend or terminate the 2015 settlement proposal.

31 III. Notwithstanding paragraphs I and II, if the commission rejects the 2015 settlement  
32 proposal or approves it with conditions that are not acceptable to the settling parties as provided in  
33 paragraph II, the commission, as part of the pending expedited proceeding in Docket DE 14-238,  
34 Determination Regarding PSNH's Generation Assets, shall order divestiture of all or some of  
35 PSNH's generation assets if the commission finds that it is in the economic interest of retail  
36 customers of PSNH to do so. If it orders divestiture, the commission shall determine the manner in

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1 which any assets should be divested; provide for the cost recovery of such divestiture, which cost  
2 recovery may include rate reduction bonds as provided in RSA 369-B:3, IV(c); and, notwithstanding  
3 RSA 374-F:3, VI, may incorporate rate designs that fairly allocate the costs of divestiture of some or  
4 all of PSNH's generation assets among customer classes. In considering rate designs, the  
5 commission shall consider the impacts on the economy in PSNH's service territory and the ability to  
6 attract and retain employment across industries.

7 IV. Prior to any divestiture of its generation assets, PSNH may modify or retire such  
8 generation assets if the commission finds that it is in the economic interest of retail customers of  
9 PSNH to do so and provides for the cost recovery of such modification or retirement.

10 V. On or before October 15, 2015, the commission shall submit to the legislative oversight  
11 committee on electric utility restructuring established under RSA 374-F:5 a progress report  
12 concerning the status of the proceedings referred to in this section.

13 221:11 Electric Rate Reduction Financing and Commission Action; Employee Protections.  
14 Amend RSA 369-B:3-b to read as follows:

15 369-B:3-b Employee Protections. In the event of divestiture or retirement of any or all of  
16 PSNH's generation assets, ~~the~~ employee protections ***no less than those*** set forth in ~~[Section X of~~  
17 ~~the original proposed settlement defined in RSA 369-B:2, VIII,]~~ ***the then-current collective***  
18 ***bargaining agreement*** shall be provided to affected employees.

19 221:12 Electric Rate Reduction Financing and Commission Action; Issuance of Rate Reduction  
20 Bonds. Amend RSA 369-B:5, I to read as follows:

21 I. An electric utility or financing entity may, from time to time, after approval by the  
22 commission in a finance order or orders, issue rate reduction bonds. The power and authority of  
23 such electric utility or financing entity to issue such bonds ***authorized by a finance order***  
24 ***pursuant to RSA 369-B:3, IV(a) or (b)*** shall expire on December 31, 2002.

25 221:13 Electric Rate Reduction Financing and Commission Action; Issuance of Rate Reduction  
26 Bonds. Amend RSA 369-B:5, VIII through X to read as follows:

27 VIII. Rate reduction bonds ***authorized by a finance order pursuant to RSA 369-B:3,***  
28 ***IV(a) or (b)*** shall mature at such time or times approved by the commission in the finance order,  
29 but not more than 14 years after competition day.

30 IX. The state treasurer, or other state official designated by the state treasurer, shall have  
31 oversight over the terms and conditions of rate reduction bond issuances, ***that are authorized by a***  
32 ***finance order pursuant to RSA 369-B:3, IV(a) or (b)***, to assure that the electric utility exercises  
33 fiscal prudence and achieves the lowest overall cost for the rate reduction bonds.

34 X. Subject to the approval of the commission and, ***in the case of rate reduction bonds***  
35 ***authorized by a finance order pursuant to RSA 369-B:3, IV(a) or (b)***, the oversight of the state  
36 treasurer, or other state official designated by the state treasurer, rate reduction bonds issued and at

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1 any time outstanding may, if and to the extent permitted under the indenture or other agreement  
2 pursuant to which they are issued, be refunded by other rate reduction bonds.

3 221:14 Public Utilities Commission; Restructuring of PSNH Ownership of Generation Assets;  
4 Recovery of Costs. Notwithstanding RSA 374-F:3, V(c), the commission may approve recovery of net  
5 over-market costs of purchased power agreements entered into pursuant to RSA 362-F:9 through a  
6 stranded cost charge as part of a comprehensive restructuring of PSNH's ownership of generation  
7 assets.

8 221:15 Effective Date. This act shall take effect upon its passage.

9

10 Approved: July 9, 2015

11 Effective Date: July 9, 2015