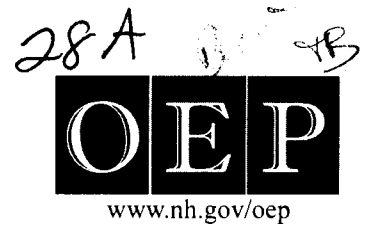




MARGARET WOOD HASSAN  
GOVERNOR

STATE OF NEW HAMPSHIRE  
OFFICE OF ENERGY AND PLANNING  
107 Pleasant Street, Johnson Hall  
Concord, NH 03301-3834  
Telephone: (603) 271-2155  
Fax: (603) 271-2615



October 9, 2015

Her Excellency, Governor Margaret Wood Hassan  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

**REQUESTED ACTION**

Authorize the Office of Energy and Planning (OEP) to amend a Memorandum of Understanding with the Department of Justice (DOJ), Vendor # 177877, Concord, NH, by increasing the contract amount by \$70,000.00, from \$90,000.00 to \$160,000.00, for litigation assistance in pending NH Public Utilities Commission dockets, effective October 21, 2015, upon Governor & Council approval through June 30, 2016. This contract was approved by the Governor and Executive Council on March 25, 2015 (Item #26). 94% Federal Funds/6% Other Funds (PVE).

<u>Office of Energy &amp; Planning, State Energy Programs</u>	<u>FY 2016</u>
01-02-02-024010-65100000	
102-500731 Contracts for Program Services	\$70,000.00


**EXPLANATION**

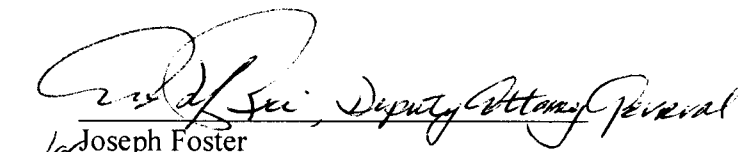
DOJ is providing litigation support and expert witness services for OEP in dockets pending at the NH Public Utilities Commission related to a legislatively required docket to determine whether it is in the ratepayers' interests to require Public Service Company of New Hampshire d/b/a Eversource Energy ("PSNH") to divest its generation fleet, and PSNH's request for cost recovery of the \$422 million mercury scrubber at the Merrimack Station in Bow. In order to participate in these dockets, OEP requires the assistance of expert witnesses that have financial and utility management experience, including the preparation of testimony and analysis, participation in technical session and hearings, and other related activities.

This proposed Amendment to the existing MOU provides additional funding to reimburse DOJ for the costs of retaining expert economic and utility management professional services for litigation support and expert testimony. The Amendment is necessary because the schedule is being extended, new issues have arisen in the case, and additional dockets are expected to address the design of the auction for the plants, should divestiture be approved.

In the event that Federal and Other Funds become no longer available, General Funds will not be requested to support this program.

Sincerely,

  
\_\_\_\_\_  
Meredith A. Hatfield  
Director  
Office of Energy and Planning

  
\_\_\_\_\_  
Joseph Foster  
Attorney General  
Department of Justice

**MEMORANDUM OF AGREEMENT  
BETWEEN  
OFFICE OF ENERGY AND PLANNING  
AND  
DEPARTMENT OF JUSTICE**

**FIRST AMENDMENT**

This Amendment dated October 8, 2015, is between the New Hampshire Office of Energy and Planning (hereinafter "OEP") and the New Hampshire Department of Justice (hereinafter "DOJ").

WHEREAS, pursuant to a Memorandum of Understanding ("hereinafter referred to as the "MOU") between OEP and DOJ, as approved by the Governor and Executive Council on March 25, 2015 (Item # 26), OEP agreed to pay for DOJ's costs associated with professional expert services provided by The Liberty Consulting Group, Inc. (hereinafter "Liberty") with respect to pending proceedings before the New Hampshire Public Utilities Commission, including Docket No. DE 14-238, Determination Regarding PSNH Generating Assets, and associated settlement negotiations;

WHEREAS, pursuant to the provisions of Section F of the MOU, the MOU may be modified or amended only by a written instrument executed by the parties thereto and only after approval of such modification or amendment by the Governor and Executive Council; and

WHEREAS, OEP and DOJ have agreed to amend the MOU in certain respects;

NOW THEREFORE, in consideration of the foregoing, the parties agree to the following:

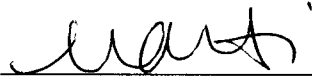
1. **Amendment and Modification of the MOU.** The MOU is amended and modified as follows:
  - A. Amend MOU Section C by renumbering current sub-paragraph 1.e as 1.f and inserting the following new sub-paragraph 1.e:
    - e. Provide expert advice and consulting services in relation to the divestiture process in the event the Commission approves divestiture of PSNH's generation assets;
  - B. Amend MOU Section D by striking the first paragraph and replacing it with the following new paragraph:

Up to \$160,000 of funds may be used by DOJ to secure expert services in support of DOJ's representation of OEP before the PUC. Funding is 94% Federal Funds; 6% Other Funds, and shall be drawn from the following OEP accounts: Petroleum Violation Escrow: 01-02-02-024010-12050000-

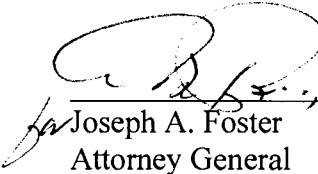
103-502664, Contracts for Op Services (\$9,000.00); State Energy Programs: 01-02-02-024010-65100000-102-500731, Contracts for Program Services (\$116,000.00); State Energy Programs: 01-02-02-024010-65100000-103-502664, Contracts for Op Services (\$35,000.00). To the extent that Federal Funds and Other Funds are no longer available, OEP will promptly notify DOJ and this MOU may be terminated as set forth in Section G, below.

2. **Continuance of MOU.** Except as specifically amended and modified by the Terms and Conditions of this Amendment, obligations of the parties hereunder shall remain in full force and effect in accordance with the terms and conditions set forth in the MOU as it existed immediately prior to this Amendment.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year first above written.


  
\_\_\_\_\_  
Meredith A. Hatfield, Director  
N.H. Office of Energy and Planning

10/14/15  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Joseph A. Foster  
Attorney General

Oct. 14, 2015  
\_\_\_\_\_  
Date

Approved by the Office of the Attorney General for form, substance, and execution.

  
\_\_\_\_\_  
Assistant Attorney General

10/14/15  
\_\_\_\_\_  
Date

I hereby certify that the foregoing amendment was approved by the Governor and Executive Council of the State of New Hampshire at their meeting on \_\_\_\_\_.

OFFICE OF THE SECRETARY OF STATE

By: \_\_\_\_\_

Title: \_\_\_\_\_



MARGARET WOOD HASSAN  
GOVERNOR

STATE OF NEW HAMPSHIRE  
OFFICE OF ENERGY AND PLANNING  
107 Pleasant Street, Johnson Hall  
Concord, NH 03301-3834  
Telephone: (603) 271-2155  
Fax: (603) 271-2615



www.nh.gov/oep

March 13, 2015

Her Excellency, Governor Margaret Wood Hassan  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

Approval by the Governor  
and Council on 03-25-15  
Agenda Item 26

**REQUESTED ACTION**

Authorize the Office of Energy and Planning (OEP) to enter into a Memorandum of Understanding with the Department of Justice (DOJ), Vendor # 177877, Concord, NH in the amount of \$90,000.00 for litigation assistance in pending NH Public Utilities Commission dockets, effective March 25, 2015 upon Governor & Council approval through June 30, 2016. 90% Federal Funds/10% Other Funds (PVE).

Funding is available in the following accounts, with the authority to adjust encumbrances in each of the state fiscal years through the Budget Office, if needed and justified:

	<u>FY 2015</u>	<u>FY 2016</u>
<u>Office of Energy &amp; Planning, State Energy Programs</u>		
01-02-02-024010-65100000		
102-500731 Contracts for Program Services	\$40,000.00	\$ 6,000.00
103-502664 Contracts for Op Services	\$30,000.00	\$ 5,000.00
<u>Office of Energy &amp; Planning, Petroleum Violation Escrow</u>		
01-02-02-024010-12050000		
103-502664 Contracts for Op Services	\$ 7,000.00	\$ 2,000.00

**EXPLANATION**

The intent of this agreement is to provide funding for DOJ to provide litigation support and expert witness services for OEP in dockets pending at the NH Public Utilities Commission. Specifically, OEP is a party to a legislatively required docket to determine whether it is in the ratepayers' interests to require Public Service Company of New Hampshire d/b/a Eversource Energy ("PSNH") to divest its generation fleet, and has been involved in settlement negotiations that also address a pending docket considering PSNH's request for cost recovery of the \$422 million mercury scrubber at the Merrimack Station in Bow. In order to participate in these dockets OEP requires the assistance of expert witnesses that have financial and utility management experience. In addition, the recently announced settlement agreement between PSNH and state officials that would resolve these pending dockets requires expert assistance to develop a full settlement agreement, related testimony and analysis, and other related activities.

The MOU provides funding to reimburse DOJ for the costs of retaining expert economic and utility management professional services for litigation support and expert testimony in pending proceedings before the NH Public Utilities Commission.

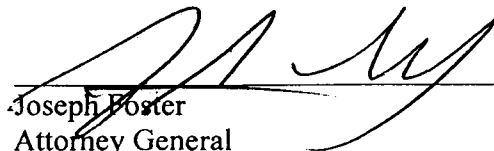
In the event that Federal and Other Funds become no longer available, General Funds will not be requested to support this program.

Sincerely,



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Meredith A. Hatfield  
Director  
Office of Energy and Planning



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Joseph Foster  
Attorney General  
Department of Justice

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
OFFICE OF ENERGY AND PLANNING  
AND  
DEPARTMENT OF JUSTICE**

**A. Agreement**

This Memorandum of Understanding (“MOU”) between the New Hampshire Office of Energy and Planning (hereinafter “OEP”) and the New Hampshire Department of Justice (hereinafter “DOJ”) sets forth the terms and conditions whereby OEP will pay for DOJ’s costs associated with the retention of professional expert services to support OEP’s legal representation of OEP in pending proceedings before the New Hampshire Public Utilities Commission (hereinafter “PUC”), including Docket No. DE 14-238, Determination Regarding PSNH Generating Assets, and associated settlement negotiations.

**B. Contracting**

DOJ will be responsible for establishing and maintaining the direct contractual relationship with an expert consultant.

**C. Scope of Work**

1. DOJ shall select a qualified expert consultant subject to OEP’s approval and retain said consultant for professional expert services in relation to pending proceedings before the PUC in Docket No. DE 14-238 and associated settlement negotiations. DOJ shall be responsible for directing and reviewing the consultant’s work, which may include, but not be limited to, the following:
  - a. Assist DOJ in facilitating meetings with relevant stakeholders and parties
  - b. Review PUC filings of the parties and provide analysis as needed;
  - c. Provide expert testimony before the PUC;
  - d. Assist in the development of positions and settlement proposals, if appropriate; and
  - e. Other related tasks as assigned.

**D. Payment for Services**

Up to \$90,000 of funds may be used by DOJ to secure expert services in support of DOJ’s representation of OEP before the PUC. Funding is 90% Federal Funds; 10% Other Funds, and shall be drawn from the following OEP accounts: Petroleum Violation Escrow: 01-02-02-024010-12050000-103-502664, Contracts for Op Services (\$9,000.00); State Energy Programs: 01-02-02-024010-65100000-102-500731, Contracts for Program Services (\$46,000.00); State Energy Programs: 01-02-02-024010-65100000-103-502664, Contracts for Op Services (\$35,000.00). To the extent that Federal Funds

and Other Funds are no longer available, OEP will promptly notify DOJ and this MOU may be terminated as set forth in Section G, below.

Pursuant to its contract with the selected expert consultant, DOJ shall ensure that the consultant provides DOJ with appropriate documentation justifying expenses under this MOU which could include time sheets, invoices, receipts, and other similar information. OEP shall have access to all such documentation. OEP shall reimburse DOJ within 30 days of a receipt of any invoice or other request for payment from DOJ.

**E. Evaluation**

The services provided by the selected consultant must be satisfactory to OEP and the DOJ. In the event that OEP determines that the services are not provided in a satisfactory manner, OEP shall report its concerns to the DOJ, and the DOJ shall take appropriate action to address these concerns. The DOJ reserves the right to terminate the consultant's contract if necessary upon consultation with OEP.


**F. Miscellaneous**

This MOU makes up the entire understanding between the parties. Neither party may further modify or amend the terms of this MOU except by written agreement signed by both parties.

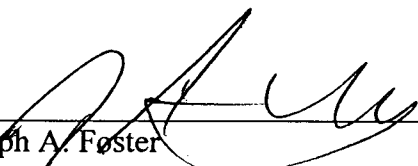
Neither this MOU, nor any rights, duties, or obligations described herein, shall be assigned by either party hereto without the prior written consent of the other party. This Agreement shall be construed under the laws of the state of New Hampshire. Nothing herein shall function or be construed as a waiver of sovereign immunity, such immunity being hereby specifically reserved.

**G. Duration**

This agreement will become effective March 25, 2015, upon approval by Governor and Council, and shall continue until June 30, 2016, subject to continued availability of funds. This MOU may be terminated by either party with 90 days notice.

  
\_\_\_\_\_  
Meredith A. Hatfield, Director  
N.H. Office of Energy and Planning

3/13/15  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Joseph A. Foster  
Attorney General

3/13/15  
\_\_\_\_\_  
Date




Approved by the Office of the Attorney General for form, substance and execution.

  
Attorney

3/13/15  
Date

I hereby certify that the foregoing agreement was approved by the Governor and Council of the State of New Hampshire at their meeting on MAR 25 2015, \_\_\_\_\_.

OFFICE OF THE SECRETARY OF STATE

By: 

**DEPUTY SECRETARY OF STATE**