

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

Docket No. DE 19-057

Public Service Company of New Hampshire d/b/a Eversource Energy

Notice of Intent to File Rate Schedules

**MOTION OF STAFF TO COMPEL
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE d/b/a EVERSOURCE ENERGY
TO RESPOND TO DATA REQUEST**

Pursuant to New Hampshire Code Admin. Rules Puc 203.09 (i), Staff hereby moves the Commission to compel Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource) to respond to a data request submitted to it by Staff in accordance with the procedural schedule for this proceeding.

In support of this Motion, Staff states as follows:

1. The Commission issued a secretarial letter on June 28, 2019, which established a procedural schedule for this docket.
2. The letter provided that parties could issue discovery on Eversource through August 13, 2019.
3. The schedule further provides that responses to all data requests received by August 13th are due on August 27, 2019.
4. Staff timely submitted data requests to Eversource.
5. On August 23, 2019, Eversource objected to data request STAFF 9-001. A copy of the data request and the objection is attached to this Motion.
6. The data request seeks unredacted tax returns for the Eversource Energy business trust and voluntary association.

7. Eversource objected, and stated that the question is not reasonably calculated to lead to the production of evidence admissible in the proceeding.

8. Staff is conducting a comprehensive review of Eversource's request for a permanent rate increase, the first such proceeding initiated by the Company within 10 years.

9. In connection with this comprehensive review, Staff examines the expenses claimed by Eversource that form the requirements for its base distribution revenue.

10. By reviewing the unredacted tax returns for the Eversource Energy business trust and voluntary association, Staff can determine whether the tax liability of Eversource Energy was appropriately allocated among the affiliated companies that form Eversource Energy, including the New Hampshire utility.

11. Absent access to the requested tax returns, Staff will not be able to affirm to the Commission that the tax expense for Eversource is reasonable, and should be included in base distribution revenue, which is relevant to this proceeding. *See* RSA 378:27 and 28.

12. Eversource also claims that the information sought "is confidential and protected from disclosure pursuant to federal law."

13. The Commission has the authority to "at any time... inspect the books, papers, and records," of a public utility. RSA 365:6. Documents relating to the taxation of Company property are records of Eversource, a public utility over which the Commission has jurisdiction.

14. Eversource's blanket claim of confidentiality does not cite any supporting federal laws that protect the unredacted tax returns for the Eversource Energy business trust and voluntary association from disclosure in this proceeding. There is significant statutory guidance under 26 U.S.C. § 6103 regarding the confidentiality of tax returns and return information, but that guidance relates to release of such information by government officers or employees, rather than

by the entity filing the return. It does not preempt the authority of the Commission under RSA 365:6 or RSA 365:15 to inspect the books and records of Eversource, a regulated public utility, and does not relieve the Company of its obligation to provide those books and records for inspection upon request. As the New Hampshire Supreme Court has long recognized, “[I]n a properly noticed manner, the PUC has full authority to commence an inquiry under RSA 365:5 [and] to require PSNH to provide information under RSA 365:15.” *Appeal of Pub. Serv. Co. of New Hampshire*, 122 N.H. 1062 (1982).

15. Pursuant to Commission rules, when documents submitted to the Commission or Staff are identified as confidential, the documents will be treated as confidential unless otherwise ruled by the Commission. Confidential financial information is exempt from public disclosure pursuant to RSA 91-A:5.

16. Pursuant to Puc 203.09(i)(4), Staff certifies that it made a good-faith effort by telephone on August 26, 2019, to resolve the discovery matters discussed herein informally.

WHEREFORE, Staff respectfully requests that the Commission order Eversource to provide the information requested in STAFF 9-001.

Respectfully Submitted



By _____
Suzanne Amidon
Staff Counsel
New Hampshire Public Utilities Commission

August 27, 2019