

STATE OF NEW HAMPSHIRE

**BEFORE THE
PUBLIC UTILITIES COMMISSION**

DE 19-057

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

Request for Change in Rates

**Department of Energy's Response to
Motion by Eversource Energy to Resolve Dispute Regarding Settlement Agreement
Implementation**

The New Hampshire Department of Energy (the Department or DOE), pursuant to a Procedural Order issued by the Public Utilities Commission (the Commission) on March 22, 2023 in this matter, hereby responds to a Motion by Public Service Company of New Hampshire d/b/a Eversource Energy to Resolve Dispute Regarding Settlement Agreement Implementation filed on March 17, 2023 (Motion). In its Motion, Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource or the Company) seeks to establish a process to review draft version(s) of a Final Audit Report that was completed pursuant to a Settlement Agreement in this docket, which is the Company's most recent base distribution rate case. The core result of this rate case was an increase in Eversource's rates designed to collect an additional \$45 million annually, plus three step increases allowing up to \$38 million additional revenues per year. The Department respectfully requests that the Commission deny Eversource's Motion as it is based on a flawed interpretation of the Settlement Agreement and an unfounded claim of bias in the Final Audit Report. In support of this Response, the Department states as follows:

1. The Business Process Audit (BPA or Audit) which is the subject of the Motion, was undertaken to address “concerns about the Company’s documentation of certain capital projects involving their planning, budgeting and management.” Settlement at Section 3.1. These concerns were acknowledged by Eversource and all parties to the Settlement, as evidenced by their signatures. Eversource now dismissively describes these previously acknowledged concerns as “allegations asserted by the Department” and “unsubstantiated claims.” Motion at 1, 5, and 10. Likewise, Eversource continues to quibble over the established Audit process, thereby trying to dismiss the Audit results rather than using the results to improve its processes.
2. The Audit was to be “conducted and overseen by Staff” utilizing a consultant. Settlement at Section 3.2 and Appendix 2. (Staff is now the DOE Regulatory Support Division.)
3. River Consulting Group, Inc. (RCG), the consultant selected to perform the Audit, issued a Final Report to Eversource and DOE for review and comment on November 30, 2022. To date, despite having reviewed the Final Report, Eversource has not provided comments to RCG (or DOE) on the Final Report. Motion at 3 (“The Company has reviewed the November Report provided to it by RCG...”). On March 15, 2023, DOE reported in a letter to RCG (with a copy to Eversource) that it had no comments on the Final Report.¹
4. Eversource complains that the November 30, 2022 Final Report was prepared in violation of the Settlement Agreement because the DOE had an opportunity to provide input into

¹ A copy of DOE’s March 15th letter to RCG is attached to this Response as Attachment 1. All other documents referenced in this Response are attached to Eversource’s Motion.

that report prior to November 30th. Motion at 2-3. Further, Eversource claims the Final Report is potentially biased against Eversource because of DOE's input. Motion at 10. Both claims are unsubstantiated and incorrect.

5. First, the Settlement Agreement provides that Staff will conduct and supervise the Audit. Providing input to RCG on draft version(s) of the Final Report falls squarely into the role of conducting and supervising the Audit. Thus, the Settlement Agreement (which Eversource signed) provides for the very actions that Eversource now bemoans. Of course DOE, as a responsible supervisor, reviewed a draft audit report before it was issued as final. Failure to do so could be viewed as a dereliction of the DOE's duty under the Settlement to conduct and supervise the Audit.

6. Eversource claims that the Company and the DOE "stand on equal footing with respect to the opportunity to review and comment on the *consultant's* report." Motion at 5. This is incorrect on its face because Eversource is the subject of the audit, while DOE is conducting and supervising the audit. The Settlement Agreement (that Eversource signed and pursuant to which Eversource has been authorized to collect over \$80 million annually through successive rate increases since 2019) spells out these roles. There simply is no "equal footing" concerning the audit, and certainly Eversource has no "right to know whether any part of the [draft] BPA Report, including but not limited to the 'findings and recommendations' were edited by DOE prior to the delivery of the [final] BPA Report to the Company." Motion at 6. For Eversource to have claim to any such "right" the

Settlement would need to have named Eversource the supervisor of the audit, rather than the subject of the audit.

7. Second, the Final Report is not biased against Eversource from any actual or imagined input by DOE. Eversource knows this because in a letter to Eversource's counsel dated February 15, 2023, RCG stated unequivocally that "the stated findings and recommendations contained in the Final Business Process Audit Report, which was provided to Eversource via email on November 30, 2022, are those of an independent third-party (River Consulting Group, Inc) using their industry expertise and working in a professional capacity." Motion at Attachment E. DOE fully supports the statements in RCG's letter. Thus, there simply is no bias in the Final Audit Report.

8. Eversource states that "the Company does not question the industry expertise and professionalism of RCG...." Motion at 5. In its letter to the DOE dated February 8, 2023, Eversource states "[t]he Company is willing to adopt the findings or recommendations put forth by River Consulting subject to any appropriate factual corrections once confirmation is obtained that the stated findings and recommendations are those of an independent third-party utilizing industry expertise and working in a professional capacity." Motion at Attachment D, p. 4. RCG provided such confirmation on February 15. Yet, paradoxically, despite not questioning RGC's expertise and professionalism, and stating that Eversource will accept the audit findings once independence is confirmed (which it was), Eversource continues to claim that the Department somehow exerted influence over RCG and infected the Final Report with bias, thus rendering the Final

Audit report useless. These statements are clearly inconsistent; either Eversource trusts RCG's integrity, its Final Report, and its confirmation of independence, or it doesn't.

9. Rather than reviewing the Final Report and earnestly trying to use the Report's findings to improve its internal capital planning and implementation processes, Eversource instead concludes that it "will be left to challenge the integrity of the BPA Report in its next base distribution rate case." Motion at 11-12.² The Department suggests instead that Eversource focus on the substance of the Final Report and embrace the findings and recommendations therein to improve its capital investment processes for the benefit of its customers, thereby narrowing issues in the next rate case, as was intended by the Settlement Agreement.

10. Eversource compared the Final Report to another report RCG issued in Connecticut and concluded that such comparison detects "a patent difference in tone, content and approach" and that the Final Report is "not likely the unadulterated work of RCG." Motion at 3, n. 4. These conclusions are unsupported and should be dismissed outright. There is no basis for drawing any conclusions by comparing these two reports. Is Eversource now suggesting that prudence of its capital investments should be judged by how well they compare to those of a Connecticut gas utility? The Department strongly urges the Commission to ignore the Connecticut report as wholly irrelevant.

² In that rate case, the Department expects it will explore why Eversource chose to ignore the Final Report while at the same time seeking to recover many millions of dollars in capital investments made since the Final Report was issued.

11. Eversource seeks a process by which it may review prior draft(s) of the Final Audit Report. As demonstrated, no such process was contemplated in the Settlement Agreement and therefore no additional process is justified or needed. Eversource has had over four months to comment on the Final Report. Thus, on April 14, 2023, the DOE plans to file the Final Audit Report in this docket as submitted to Eversource on November 30, 2022 (with or without any comments on the Report from Eversource). That is what the Department believes the Settlement calls for, given that Eversource has had over four months to provide comments on the Final Report and has opted not to comment. Settlement at Appendix 2.

WHEREFORE, the Department respectfully requests that the Commission:

1. Deny the Motion of Eversource; and
2. Accept the Final Report when it is filed on April 14, 2023.

Respectfully submitted,

New Hampshire Department of Energy

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