

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 19-057

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE d/b/a EVERSOURCE ENERGY

Request for Change in Rates

Order *Nisi* Approving Settlement Agreement

O R D E R N O. 26,882

September 11, 2023

In this order *nisi*, the Commission approves a settlement agreement between Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource) and the New Hampshire Department of Energy (DOE), resolving issues raised in Eversource's appeal of Order Nos. 26,504 (July 30, 2021) and 26,528 (September 27, 2021) to the New Hampshire Supreme Court (Court). The settlement agreement reduces a capital investment disallowance from \$911,000 to \$614,652 and approves recovery on the \$296,348 difference in the base distribution rate change taking effect as a result of Eversource's next distribution rate case. This order is issued on a *nisi* basis, affording notice and opportunity for hearing to the parties in the underlying adjudicative proceeding and other interested persons.

I. BACKGROUND AND PROCEDURAL HISTORY

The subject of this order is the approved increase to rate base following the adjudication of a step adjustment based on plant additions placed in service during calendar year 2020 (the second step adjustment), as authorized in Eversource's rate case that was also adjudicated in the instant docket.

On May 3, 2021, Eversource filed a petition to implement the second step adjustment, requesting recovery of \$11,126,440 in revenue requirement associated with \$124,215,062 of plant additions placed in service during calendar year 2020.

Eversource pre-filed supporting testimony and related attachments associated with this capital investment. The Commission issued a supplemental order of notice on June 3, 2021, scheduling a hearing that was held on July 19, 2021.

After hearing, the Commission issued Order No. 26,504 (July 30, 2021), authorizing Eversource to increase its rate base by \$123,141,062. Eversource was therefore disallowed permission to include \$1,074,000 in its rate base, which in turn reduced the revenues Eversource is allowed to demand from its customers through distribution rates. Of the \$1,074,000 figure, \$911,000 was based on the Pemigewasset Substation Project (Pemi Substation) issue. The prudence of the Pemi Substation was raised by the DOE at hearing based on cost overruns, with specific emphasis on costs attributable to a third-party engineering contractor's error. Order No. 26,504 at 4. The Commission agreed with the DOE, and disallowed \$911,000 in investment costs associated with Pemi Substation, the difference between Eversource's initial and revised project cost estimates. *Id.* at 6.

Eversource sought rehearing of various aspects of Order No. 26,504. On the Pemi Substation issue, the Commission denied rehearing. Order No. 26,528 (September 27, 2021) at 3-4. Eversource appealed Order Nos. 26,504 and 26,528 to the Court pursuant to RSA ch. 541. Notice of Appeal filed October 27, 2021, tab 197, document 2.

The parties to the Court action engaged in mediation and arrived at a settlement; the Court ordered that the matter be remanded and that the Commission consider the settlement and issue an appropriate order. Remand Order filed July 7, 2023, tab 267 (Remand Order).

On August 21, 2023, Eversource filed the Settlement Agreement (Settlement Agreement), along with the pre-filed direct testimony of Marissa B. Paruta, Director of

Revenue Requirements for Eversource Energy Service Company in support of the Settlement Agreement. According to Dir. Paruta's pre-filed testimony, the Settlement Agreement was arrived at by comparing the actual costs of \$7,431,652 to the estimated costs of \$6,817,000. Direct Testimony of Marisa B. Paruta at page 4.

All filings related to this rate case, the second step adjustment, Eversource's appeal, and the Settlement Agreement, other than any information for which confidential treatment has been requested of or granted by the Commission, are posted at: <https://www.puc.nh.gov/Regulatory/Docketbk/2019/19-057.html>.

II. COMMISSION ANALYSIS

The Commission considers this Settlement Agreement pursuant to the Court's Remand Order and the underlying statutory standards for rate setting identified in the Commission's June 3, 2021 supplemental order of notice, namely RSA 374:2, and RSA 378:5 and :7. As with any analysis under RSA ch. 378, the standards of RSA 378:27–28 also apply, requiring that rates be based on the costs of prudent, used and useful utility plant.

The Commission possesses statutory authority to modify its prior orders pursuant to RSA 365:28. Finally, Puc 203.20(b) requires the Commission to “approve a disposition of any contested case by stipulation, settlement, consent order or default, if it determines that the result is just and reasonable and serves the public interest.”

The Settlement Agreement proposes a substantive change to the calculation of the disallowance resulting from Order No. 26,504. That change is to calculate the disallowance as the difference between the original estimate and the actual costs booked by Eversource, in lieu of a calculation based on the difference between Eversource's original estimate and second estimate of project cost. The original

estimate for Pemi Substation project was \$6,817,000; the second estimate (following the circumstances discussed in Order Nos. 26,504 and 26,528) was \$7,729,000; the actual costs booked by Eversource are \$7,431,652. Settlement Agreement at 2–3. The Settlement Agreement results in an additional \$296,348¹ being added to rate base; however, no rate change is allowed until distribution rates are set in Eversource’s next rate case. *Id.* at 3. Eversource agrees to “forego recovery of any revenue requirements associated with the \$296,348 for the period from August 1, 2021 ... through the base rate change taking effect as a result of Eversource’s next base rate distribution rate case proceeding.” *Id.*

We have reviewed the Settlement Agreement and methodology employed to calculate a different disallowance figure. We conclude that calculating the disallowance based on actual costs in excess of the original estimate, as opposed to the cost difference between estimates, is a reasonable method of calculation that is consistent with RSA 378:27–28’s provisions related to rate setting based on the costs of capital improvements. Furthermore, settlement of this matter serves the public interest because making a technical change to the calculation of a disallowance is a reasonable resolution when the State’s time, expense, and effort of litigating these questions before the Court are considered. Based on these factors, we conclude that the Settlement Agreement is just and reasonable, and serves the public interest. Therefore, the Settlement Agreement is approved pursuant to Puc 203.20(b), and we modify Order No. 26,504 accordingly.

¹ We note that the difference between the second estimate and actual booked costs equates to \$297,348, a difference of \$1,000. This difference is likely due to rounding of estimate figures. As the settled figure to be included in rate base is the lesser amount, the Commission accepts this figure despite the apparent discrepancy.

This order is issued on a *nisi* basis, affording notice and opportunity for hearing to the parties in the underlying adjudicative proceeding and other interested persons.

Based upon the foregoing, it is hereby

ORDERED NISI, that subject to the effective date below, the Settlement Agreement filed on August 21, 2023 is APPROVED; and it is

FURTHER ORDERED, that Order No. 26,504 is modified to reduce the disallowance from \$911,000 to \$614,652 for the Pemi Substation, with recovery on the \$296,348 difference associated with this change forgone by Eversource until the base rate change taking effect as a result of its next base rate distribution rate case proceeding; and it is

FURTHER ORDERED, that the Eversource shall post a copy of this order on the Company's website within two business days of the date of this order, September 13, 2023, with an affidavit of publication to be filed with this office on or before September 22, 2023; and it is

FURTHER ORDERED, that all persons interested in responding to this order be notified that they may submit their comments or file a written request for a hearing, stating the reason and basis for a hearing, no later than October 6, 2023, for the Commission's consideration; and it is

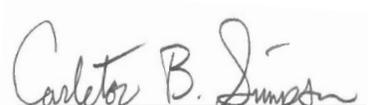
FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than October 13, 2023; and it is

FURTHER ORDERED, that this order shall be effective October 20, 2023, unless the Eversource fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

By order of the Public Utilities Commission of New Hampshire this eleventh day
of September, 2023.



Daniel C. Goldner
Chairman



Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket#: 19-057

Printed: 9/11/2023

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