

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

DOCKET NO. DE 14-238

2015 PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
RESTRUCTURING AND RATE STABILIZATION AGREEMENT

REBUTTAL TESTIMONY OF JOHN J. REED

November 19, 2015

I. Introduction

Q. Please state your name, affiliation and business address.

A. My name is John J. Reed. I am the Chairman and Chief Executive Officer of Concentric Energy Advisors, Inc. (“Concentric”) and CE Capital Advisors, Inc. (<http://www.ceadvisors.com/>). My business address is 293 Boston Post Road West, Suite 500, Marlborough, Massachusetts 01752.

Q. Have you previously filed testimony in Docket No.DE-14-238?

A. Yes. On July 7, 2015 I submitted Direct Testimony on behalf of Public Service Company of New Hampshire (“PSNH”) as part of the approval process for the 2015 Restructuring and Rate Stabilization Agreement (“Agreement”). My Direct Testimony explained how a typical auction process is structured and more specifically PSNH’s proposal for divesting its 15 generating assets (“Generating Assets”).

Q. What is the purpose of your Rebuttal Testimony?

A. The purpose of my Rebuttal Testimony is to respond to the testimony of New Hampshire Public Utilities Commission (“Commission”) Staff witness Leszek Stachow and witness Peter Cramton who is testifying on behalf of Commission Staff (together referred to as “Non-Advocate Staff”). In particular, I will respond to these witnesses’ testimony regarding the timing of the auction and the auction objectives and process contemplated by the Agreement.

Q. How is the remainder of your Rebuttal Testimony organized?

A. Section II of my testimony provides my key conclusions. In Section III, I respond to Mr. Stachow’s recommendation that the Commission defer consideration of a sale. Section IV

1 responds to testimony regarding the objectives of the auction of PSNH's Generating Assets,
2 including providing for the participation of municipalities that host individual generation
3 assets in the auction process if they choose to participate. Finally, Section V responds to
4 specific questions and comments regarding the auction process I discussed in my Direct
5 Testimony and the "simultaneous ascending clock auction" proposed by Mr. Stachow and
6 Professor Cramton.

7 **II. Key Conclusions**

8 **Q. Please summarize the key conclusions of your testimony.**

9 A. The key conclusions of my Rebuttal Testimony are as follows:

- 10 • Current market conditions make now the right time to auction PSNH's Generating Assets;
- 11 • The stated auction objectives as noted in the Agreement have not changed. The primary
12 objective is to maximize Total Transaction Value ("TTV"), which includes not only
13 purchase price, but also other non-cash elements. Non-Advocate Staff's secondary
14 objectives are important, but should not obstruct the ultimate objective of TTV;
- 15 • The Agreement provides "host" municipalities with an opportunity to participate in the
16 Generating Asset auction process, not an "option" on the Generating Assets;
- 17 • In order to maximize TTV, a competitive, confidential auction process with a qualified
18 auction manager is critical; and
- 19 • A simultaneous ascending clock auction, as proposed by Non-Advocate Staff will most
20 likely lead to a failed auction and/or a greatly discounted TTV.

1 **III. Timing of the auction**

2 **Q. Mr. Stachow recommends that the Commission defer consideration of a sale of**
3 **PSNH's generation assets for five years.¹ What is your understanding of the basis of**
4 **Mr. Stachow's recommendation?**

5 A. Mr. Stachow's recommendation is based on Non-Advocate Staff's belief that an asset sale at
6 this time may impose a financial burden on ratepayers relative to the retention of generation
7 assets. As Mr. Stachow states:

8 Based on the analysis of Staff witness Mr. Cannata, Staff believes that rate payers
9 may be better served by deferring consideration of the sale of Eversource generating
10 assets for five years, when alternative provision of both gas and power may be more
11 clearly available. Staff further believes that delaying the Eversource asset sale by an
12 additional five years may be in the economic interest of ratepayers.²

13 As a result, Mr. Stachow recommends that the Commission approve the Agreement on the
14 condition that the sale of PSNH's generation assets be deferred because Non-Advocate
15 Staff's analysis demonstrated that such a sale would not be in the public interest as
16 referenced in RSA 369-B:3-a,II.³ Mr. Stachow relies on Mr. Cannata's analysis to make his
17 assertion that the auction should be postponed.

18 **Q. What is the basis of Mr. Cannata's analysis?**

19 A. Mr. Cannata relies on PSNH witness Mr. Chung's model showing \$378.9 million in savings
20 by proceeding with the auction as a basis for his assertion that a divestiture at this time
21 would actually result in a customer cost of \$677.6 million over a five year period. Mr.
22 Cannata goes on to state that plant valuations may actually increase in the future due to

¹ Testimony of Mr. Leszek Stachow, at 20-21.

² Testimony of Mr. Leszek Stachow, at 2, lines 17-21.

³ Testimony of Mr. Leszek Stachow, at 20-21.

1 uncertainties in the ISO New England market, and concludes that the divestiture of the
2 PSNH generation assets is not in the economic interest of PSNH retail customers at this
3 time.⁴

4 Based on this analysis, Mr. Stachow concludes that rate payers may be better served by
5 deferring consideration of the sale of PSNH's Generating Assets for five years, when
6 "alternative provision of both gas and power may be more clearly available."⁵

7 **Q. Do you agree with the analysis and conclusions?**

8 A. No. Mr. Stachow's position that delaying the auction will benefit ratepayers is based on his
9 belief that a delay will provide for "alternative provision" of both gas and power. He
10 clarifies that the "alternative provision" of both gas and power refers to the potential
11 development of additional generating capacity as well as potential increases in natural gas
12 transportation infrastructure that would facilitate delivery of a greater volume of gas to the
13 New England area.

14 As noted in Dr. Shapiro's testimony, the Non-Advocate Staff's attempt to "time" the
15 competitive marketplace to increase the value of PSNH's Generating Assets to customers is
16 an exercise in futility. The same reasons why Non-Advocate Staff argues for retaining the
17 assets for many more years could also be used to argue that those assets should be divested
18 immediately.

⁴ Testimony of Mr. Michael D. Cannata, at 18 lines 2-13.

⁵ Testimony of Mr. Leszek Stachow, at 2, lines 17-19.

1 The reason that Mr. Stachow uses for delaying the auction of PSNH's Generating Assets is
2 precisely the reason why the auction should take place as soon as possible. The
3 development of additional generation capacity, likely in the form of efficient natural gas-
4 fired generation and renewable resources, will challenge PSNH's fossil-fired generation in
5 the market and will likely negatively affect the value of these facilities.

6 Current market conditions are favorable for the auction of PSNH's Generating Assets. The
7 most recent ISO-NE forward capacity auction, held in February of 2015, cleared at almost
8 \$10/kW-month. This price represents more than a 300% increase in the clearing price of
9 \$3.00/kW-month less than three years ago. While the higher auction price reflects a need
10 for generation capacity to replace generating units that have announced retirement, this
11 auction added more than 1,500 MW of planned gas generation to the region's mix,
12 including: 1) a 725-MW combined-cycle resource in Oxford, Connecticut; 2) two 45-MW
13 combustion turbines in Wallingford, Connecticut; and 3) a 900-megawatt combined-cycle
14 generator in Rhode Island. In addition, the ISO-NE interconnection queue includes a total
15 of 9,500 MW of new natural gas and wind-powered generation competing to replace
16 roughly 4,200 MW from resources retiring by 2018. In addition to the proposed generating
17 capacity, increased energy efficiency and demand response programs to make up for the
18 generation lost as a result of the retirement of generating units are expected to increase
19 (including load management, distributed generation, and energy efficiency programs).
20 Finally, there are currently several announced projects that will bring additional gas
21 infrastructure into New England, and facilitate the entry of additional gas generation into the
22 region to replace the announced retirements. This is clear evidence that the region has more

1 than enough proposed resources to meet the projected need due to announced retirements.

2 In addition, wholesale energy and capacity prices are likely to decrease in the future. Now

3 is the time to sell the PSNH assets.

4 **Q. Do you agree that more time will allow for “alternative provision of both gas and**
5 **power”?**

6 A. Yes, more time will allow for the entry of more efficient and lower cost generating assets to
7 meet future customer demand. These developments will likely disadvantage much of
8 PSNH’s Generating Assets. Postponing the auction will allow more time for changes in the
9 market in terms of resource mix, renewable directives, and environmental mandates that will
10 negatively affect the operation of PSNH’s fossil-fired assets, and ultimately, negatively
11 affect their value in the marketplace.

12 **Q. What are the risks of delaying the auction of the assets?**

13 A. The risks of delaying an auction of the Generating Assets involve both market risk and
14 extrinsic risks that have the potential to lower the value of PSNH’s generation assets in the
15 future. In terms of market risk, if you were to ignore the efficient marketplace rule, new
16 generation resources may enter the market to replace announced retirements and displace
17 PSNH’s fossil-fired assets. Not only will this affect the frequency with which the assets are
18 dispatched and earning revenues in the energy market, these resources will drive down
19 capacity market clearing prices from their currently high levels and reduce the capacity
20 revenues that PSNH Generating Assets are currently earning. In addition, continued low
21 gas prices will increasingly challenge the energy market revenues achieved by PSNH’s less
22 efficient resources.

1 In addition to market risks, numerous extrinsic risks have the potential to affect the viability
2 of PSNH's Generating Assets in the future. Environmental requirements such as federal air,
3 water, endangered species, and greenhouse gas standards will affect the economic
4 performance of fossil-fired generators by imposing operational constraints and additional
5 capital costs for environmental controls. The U.S. Environmental Protection Agency
6 ("EPA") is developing and implementing several air and water quality rules in the following
7 areas that will have an impact on existing and new generators, including:

- 8 • Surface water withdrawals (for cooling water use and consumption);
- 9 • Wastewater discharges into surface water;
- 10 • Mercury, acid gas, and other toxic air emissions;
- 11 • Ozone transport, fine particulate matter, and sulfur dioxide emissions; and
- 12 • Greenhouse gases (GHGs)/carbon emissions.

13 Several New England states and EPA are developing or implementing air and water quality
14 requirements for generators and greenhouse gas reduction targets under the Regional
15 Greenhouse Gas Initiative ("RGGI") or through Clean Energy Performance Standards.

16 In addition, in August 2015, EPA finalized the Clean Power Plan ("CPP"), for existing
17 fossil-fuel-fired power plants under Section 111(d) of the Clean Air Act. The final CPP
18 requires affected fossil power plants to reduce carbon emissions 32% nationwide by 2030
19 from a 2005 baseline, with the initial reductions due by an interim 2022 deadline and
20 additional milestones before the final 2030 deadline. The New England states have

1 differing obligations for reducing carbon emissions by 2030, depending on their existing
2 fossil generating capacity.

3 These environmental standards will increasingly threaten the value of PSNH's Generating
4 Assets the longer the auction is delayed. Potential buyers bidding on the Generating Assets
5 will include the environmental compliance risk in their valuations at different rates
6 depending on each buyers' risk tolerance levels. The existing uncertainty around future
7 environmental mandates and compliance makes transferring this risk away from ratepayers
8 the prudent course of action.

9 Another extrinsic risk is the potential for increases in the prevailing interest rates. As
10 interest rates increase, bidders will lower the price they are willing to offer in order to offset
11 higher financing costs. Not only would lower bid prices increase the absolute value of
12 stranded costs that customers will have to pay for, but the cost of financing those higher
13 stranded costs will also increase.

14 **Q. Can the commitment to commence the divestiture process simply be deferred as**
15 **recommended by Mr. Stachow and the rest of the Agreement approved?**

16 **A.** I do not believe so. The Agreement specifically resolves a number of issues pending before
17 the Commission for the benefit of customers. As discussed in my Direct Testimony, the
18 auction or divestiture commitment is a key component of the Agreement which is critical to
19 achieving the Agreement's overall objectives, protecting the economic interests of PSNH's

1 electricity customers, finalizing the establishment of a competitive energy market and
2 helping to resolve issues regarding restructuring New Hampshire's electricity market, and
3 providing meaningful protections for New Hampshire's labor force that are supported by
4 organized labor and impacted municipalities.

5 **IV. Auction Objectives**

6 **Q. Please summarize your understanding of the testimony of each of Mr. Stachow and**
7 **Professor Cramton regarding the objectives of the auction of PSNH's Generating**
8 **Assets.**

9 A. Both Mr. Stachow and Professor Cramton state that the primary objective of the auction
10 design is to maximize TTV. In addition to this primary objective, Dr. Cramton, as
11 supported by Mr. Stachow, includes four secondary objectives of the auction process, as
12 follows:

- 13 • *Fairness* - all auction participants have equal opportunity. All potential bidders have
14 access to the auction rules and qualified bidders have access to the same detailed
15 information. Moreover, the auction rules do not inappropriately discriminate among
16 parties.
- 17 • *Transparency* - auction rules are clear and unambiguous. Bidders know how the
18 rules translate bids into outcomes. With a transparent design, participants know why
19 they won or lost and they understand why their payments are what they are.
20 Participants are able—at least after the event—to confirm that the auction rules were
21 followed.
- 22 • *Simplicity* – the auction is as simple as possible, but not simpler. It is important that
23 the auction be made as simple as possible to solve the economic problem of the
24 setting. Simplicity is best measured in terms of the simplicity of participating in the
25 auction. Are the needs of potential participants satisfied as simply as possible?
26 Simpler designs let participants express preferences more simply and effectively.
27 Simpler designs have straightforward incentives. Simpler designs also reduce
28 participants' risks.

- *Efficiency* – the auction yields outcomes that maximize gains from trade—the plants are awarded to the companies that value them the most. An efficient auction encourages participation, especially by high-valuing buyers as they can be more confident that their participation will be rewarded with success.⁶

Dr. Cramton points out that these four secondary objectives are complementary, and that an auction design that adheres to these objectives will motivate bidder participation, and will support the primary objective of the auction of maximizing transaction value.

Q. Do you agree with these objectives?

A. These stated objectives are consistent with those articulated in the Settlement Agreement. As described in my Direct Testimony, the primary objective of the auction of PSNH's Generating Assets is to maximize TTV. Maximizing TTV, through a competitive, well-run divestiture process is a reasonable goal, consistent with divestiture norms. The Settlement Agreement contains additional important secondary objectives for the auction which are not addressed by these witnesses, including: i) helping to establish a competitive energy market and facilitate competition; ii) providing a market-based determination of stranded costs; and iii) providing specific protections for employees in the form of continuity of employment, wages, and benefits for a period of time, and for host communities by allowing them specific considerations should they choose to bid on the assets.

While the four secondary objectives presented by the Non-Advocate Staff are important, they are secondary and therefore, should not hinder the ultimate objective of TTV. For example, a confidential, competitive auction process facilitates value creation. In my

⁶ Testimony of Dr. Peter Cramton, at 2-3.

1 experience, full transparency of the bidder's identities may be problematic for many bidders
2 and may very well limit bidder participation. To ensure a fair and transparent outcome, the
3 Agreement requires that the Commission have administrative oversight of the auction
4 process and bid selection, including such direction and control as it deems necessary. The
5 Commission will select and supervise the auction advisor to conduct the auction process.
6 This means that as the process unfolds, the Commission will be involved in the initial non-
7 binding phase, the binding bid phase as well as the bid evaluation and negotiation phases.
8 Not only will the Commission be involved in each phase it will have ultimate approval and
9 determination over the final winning bid(s).

10 **Q. How does the Non-Advocate Staff define TTV?**

11 A. Dr. Cramton defines maximizing TTV as obtaining the highest total revenue from buyers of
12 the divested assets. Achieving this goal benefits New Hampshire rate payers because it
13 contributes to the minimization of stranded costs".⁷ Dr. Cramton clarifies that TTV refers
14 to "the revenues that can be obtained from sale of the power plants.in order to
15 maximize total transaction value and achieve the auction's secondary goals, winning bidders
16 must be able to meet their obligations. Hence, the overall solicitation process includes
17 several provisions to ensure that bidders can and do meet their obligations."⁸

18 **Q. Do you agree with this definition?**

19 A. No. Dr. Cramton's focus is maximizing purchase price. There is an important distinction
20 between maximizing purchase price and maximizing TTV. Maximizing the purchase price

⁷ Testimony of Dr. Peter Cramton, at 2, lines 19-21.

⁸ Dr. Cramton response to Eversource Data Request No 1-81, October 16, 2015.

1 considers cash elements only and ignores the role that the terms of a transaction play in the
2 value realized for the assets. Non-cash elements may include the transfer of liabilities or
3 requirements (e.g., employment obligations, environmental liabilities). For example, when
4 selling a house, a buyer may be willing to purchase the house with no conditions for
5 \$300,000. Another buyer may be willing to buy the house for \$320,000, but with the
6 requirement that the seller install a new septic system and new roof for an estimated cost of
7 \$50,000. In this case, the offer from the first buyer, while lower on its face, would
8 ultimately represent the higher TTV. Mr. Stachow and Dr. Cramton do not consider the
9 importance of contract terms in the definition of TTV and their impact on stranded costs and
10 New Hampshire ratepayers.

11 **Q. Please summarize Mr. Stachow's testimony regarding the participation of host**
12 **communities in the auction process.**

13 A. Mr. Stachow acknowledges that a secondary objective of the auction (to the extent not
14 inconsistent with the primary objective) is to accommodate the participation of
15 municipalities that host generation assets. He expresses concern with the lack of clarity
16 from the "host" municipalities' perspective on how their participation will be
17 accommodated. Mr. Stachow's concern will not be addressed with the auction process he is
18 endorsing. There is a difference in providing host communities with the opportunity to
19 participate in the auction of the Generating Assets versus an "option" on the Generating
20 Assets. An opportunity will require that they participate in the auction as any other bidder,
21 and work through an auction process that will ensure that TTV is maximized for the benefits
22 of ratepayers. An "option" on the Generating Assets would only result in a risk to

1 competition in the auction process and would jeopardize the primary auction objective of
2 maximizing TTV.

3 **V. Auction Process**

4 **Q. Please summarize your understanding of Mr. Stachow's concerns regarding the**
5 **typical auction process as you described in your Direct Testimony.**

6 A. Mr. Stachow does not specifically disagree with the auction process that I have laid out in
7 my Direct Testimony. His main concerns are related to "a lack of clarity with respect to the
8 multi-stage process" and between my use of the terms "phases" and "stages". Non-
9 Advocate Staff is also concerned that my proposed process will not be efficient, fair, simple
10 and transparent.

11 **Q. Do you agree with these criticisms?**

12 A. No, I do not. The terms "phases" and "stages" can be used interchangeably. Therefore,
13 when I discuss the multi-stage process, I also mean the multi-phase process. Furthermore,
14 the Agreement states that the auction of PSNH's generation assets will be conducted by a
15 qualified advisor and that the auction process is anticipated to consist of an initial non-
16 binding phase (or stage) and subsequent bidding phases (stages). I provided my expert
17 opinion that a multi-phase (stage) auction process conducted by an expert advisor, with
18 specific rules regarding participation and ultimate oversight/approval by the state regulator
19 is typical of a utility generation asset divestiture process. The Agreement's required
20 Commission involvement provides additional transparency for the process.

1 I have been involved in numerous divestiture processes that have followed this same multi-
2 phase (stage) structure. For example, I worked with Boston Edison, Eastern Utilities
3 Associates, Central Maine Power, New England Electric System, Central Hudson and GPU
4 Energy on the successful divestitures of their fossil assets. In those divestitures, we
5 employed multi-phase (stage) auction processes that included an initial non-binding phase
6 (stage) and a second binding phase (stage). Subsequent phases (stages) for bid evaluations
7 and negotiations followed. More recently, Concentric has advised the sale of non-utility
8 generator assets and has employed the same multi-phase (stage) process.

9 **Q. Please list the steps of the “simultaneous ascending clock auction process”**
10 **recommended by Mr. Stachow and Professor Cramton.**

11 A. In their testimonies, Mr. Stachow and Dr. Cramton have outlined the following steps for an
12 ascending clock auction process:

- 13 • Step 1: Distribute offering memorandum and qualify bidders.
- 14 • Step 2: Allow qualified bidders to conduct initial due diligence and submit indicative
15 bids.
- 16 • Step 3: Standardize asset packages and contracts for use in a simultaneous ascending
17 clock auction.
- 18 • Step 4: Allow qualified bidders from step 2 to conduct further due diligence and
19 participate in auction.
- 20 • Step 5: Conduct auction.

- Step 6: Commission reviews and accepts winning bids, followed by contract signing and settlement.⁹

Q. How does the Agreement's multi-stage auction process compare to the simultaneous ascending clock auction process?

A. The multi-stage auction process as described in my Direct Testimony begins in a manner similar to the Non-Advocate Staff's proposed process, but ends very differently. I agree that a bidder qualification process is necessary to assess each bidders' financial capacity as well as its operating experience. In my described process, a qualified bidder would sign a confidentiality agreement and then receive the Offering Memorandum and access to the data room. Apart from that similarity, the two processes are very different.

Q. Do you believe Dr. Cramton's auction design process will maximize TTV and achieve the auction objectives?

A. No. The auction design being proposed by Dr. Cramton and Mr. Stachow assumes that all bidders will be willing to accept the standardized contract terms and fails to consider the complexities involved in selling generation assets. In the more than 50 plants I have helped buy or sell over my more than 30 years in the energy industry, I have not once been involved in a transaction where all bidders were willing to acquire an asset on the same terms. This includes the divestitures of the once utility-owned power plants throughout the Northeast.

⁹ Testimony of Dr. Peter Cramton, at 34, lines 11-17.

1 Generating assets are not a “one-size fits all” investment and an effective auction process
2 must not only recognize but embrace that fact. To use the simple example again, of selling
3 a house, there are many different negotiable items, like keeping the appliances, timing of the
4 closing date, etc. When selling a power plant, the terms of the transaction are even more
5 extensive and complex, and the impact of different terms on the TTV offered by different
6 parties is magnified.

7 **Q. Has Dr. Cramton’s proposed auction design ever been used in the auction of power**
8 **plants?**

9 A. No. While the idea of an ascending clock auction is not new, it has never, to my knowledge,
10 been used exclusively to sell generating assets. An ascending clock auction design has been
11 used frequently for the sale of a defined commodity, e.g., an ISO’s capacity product, over
12 the past 20 years, but not in the physical sale of power plant assets. An ascending clock
13 auction design fails to consider the complexities and risks involved in selling generation
14 assets, such as regulatory uncertainty, environmental risk, the physical condition of the
15 assets, asset life, personnel costs, expansion possibilities and the assumption of liabilities
16 that cannot be translated to a one size fits all set of terms. Physical generating assets are not
17 a rigorously defined product or commodity, and the terms of sale for these assets should be
18 allowed to vary to capture the maximum value for the sale.

19 The divestiture process that I have outlined is industry standard, expected by bidders and is
20 proven to maximize TTV. In his response to Eversource data request 1-56, Mr. Stachow
21 states that:

1 [T]here is relatively little public information available on the finer details of the bid
2 processes that the various utilities have used to divest its assets.¹⁰

3 Over the past twenty years the process that I described has been used in nearly all the utility
4 fossil divestitures in the United State and I have been involved on either the sell-side or the
5 buy-side of many of those processes.

6 **Q. Please explain why you disagree with Step 2 of the Non-Advocate Staff's proposed**
7 **auction process.**

8 **A.** In Step 2, Non-Advocate Staff would require indicative bidders to provide individual bids
9 for each asset in which they provide a bid and a "stated bid premium" for the asset subset
10 they seek. In a subsequent data request response Mr. Stachow noted that the "stated bid
11 premium" "would not be applicable if one or more bidders wanted to purchase assets
12 comprising the package individually."¹¹ I do not agree with this approach and would not
13 recommend limiting the bidders to bidding only on individual assets as there could be value
14 ascribed to different bundles of assets that may be lost through that requirement. In
15 addition, in my experience the indicative bid phase (stage) is used to observe bidders'
16 preferences as they relate to their interest in each asset, asset bundling and specific terms of
17 sale. This knowledge can gauge how the next phase (stage) of the process will develop.
18 Discussions with bidders at the indicative bid phase (stage) is very important to tailoring the
19 auction to the wants and needs of the market. The auction manager has to listen to the
20 bidders and be willing to make changes to the process as it unfolds. The process as

¹⁰ Mr. Stachow response to Eversource Data Request No 1-56, October 16, 2015.

¹¹ Mr. Stachow response to Eversource Data Request No 1-64, October 16, 2015.

described by Non-Advocate Staff is too prescriptive and could limit bidder participation and asset value.

Q. Step 3 of Non-Advocate Staff's proposed auction process seeks to standardize the asset packages and contracts for use in a simultaneous ascending clock auction. Please explain why this step would be detrimental to the auction.

A. To force all bidders to sign the same contract terms is very likely to drive away certain bidders and/or force certain bidders to discount their price, leaving value on the table. Each bidder has its own value drivers and will marry together different terms and will ascribe different values to each term. Bidders will place price and non-price values on environmental terms, labor terms, closing terms, etc., that will all factor into TTV. As explained above, TTV does not mean maximizing the purchase price. It includes all terms of sale, including, but not limited to the purchase price. The auction process is not a one-size fits all process and selling physical power plant assets is not straightforward. As discussed above, requiring each bidder to agree to the same contract terms will leave significant value on the table and may significantly deter bidder participation. Moreover, many bidders would not invest the time and expense to fully mark-up transaction documents at such an early stage of the auction process.

Furthermore, any price discovery or bidder preferences that may have been ascertained in the indicative bid process would clearly be lost once the conformed contract terms were forced on all bidders.

1 **Q. Do you have other disagreements with Step 3 of Non-Advocate Staff's proposed**
2 **auction process?**

3 A. Yes. Step 3 of Non-Advocate Staff's proposed auction process states that:

4 In addition, if all bidders prefer certain groupings of assets (e.g., they believe that the
5 hydro plants should be sold in a package), then those groupings will be offered in the
6 final auction. However, if there are bidders who want to purchase these assets
7 individually, then the assets will not be offered as a package. In this way,
8 municipals that may prefer to buy only a single asset will be accommodated in the
9 sales process.¹²

10 Requiring bidders to bid on each asset separately will reduce the overall TTV. Bidders will
11 ascribe different values and risk premia to different assets based on individual company
12 values and expertise. Many times sellers will ask bidders in the final bidding phase (stage)
13 to provide conforming bids in order to develop an apples to apples comparison for bid
14 evaluation purposes. But more often than not, bidders will provide a more valuable non-
15 conforming bid. In fact, in all auctions that I have been involved in, a non-conforming bid
16 has always been chosen because the bidders were allowed to be creative in their bid
17 structure and therefore find value in assets or terms.

18 **Q. How do you respond to Mr. Stachow claims that your described auction process is**
19 **unclear as to how winners will be decided if some bidders bid for individual plants and**
20 **others bid for groups of plants?**¹³

21 A. This concern has never been an issue in any of the auction processes I have conducted. A
22 well run auction process will include regular communication between the auction manager
23 and the bidders that will provide the auction manager with important information regarding

¹² Testimony of Dr. Peter Cramton, at 18, lines 13-18.

¹³ Testimony of Mr. Leszek Stachow, at 15, lines 2-3.

1 each bidder's general bidding preferences. Evaluation criteria will be developed by the
2 auction manager that includes both price and terms and the assets will be valued using those
3 criteria. As discussed above, the auction manager may require bidders to bid on certain
4 asset bundles for evaluation purposes, but more likely than not, a non-conforming bid will
5 find the most value because the bidders can be creative in bidding this way.

6 **Q. As part of Step 4, Mr. Stachow advocates for distributing all bidder data requests and**
7 **the associated utility responses to all bidders in the process. Do you agree with this**
8 **directive?**

9 A. No. In past multi-phase (stage) auctions where I have been the auction manager, utilities
10 have shared questions and answers with all bidders during the indicative bid phase (stage),
11 but once bidders have made it to the final bid phase (stage), those responses were considered
12 confidential and only provided to the requesting bidders. When bidders engage in power
13 plant due diligence, they spend hundreds of thousands of dollars reviewing materials and
14 financially and operationally analyzing the assets. Bidders hire engineering, environmental,
15 human resources and other consultants to review the relevant materials for the asset sale and
16 provide their expert opinions of the assets. It would be considerably unfair to the bidders
17 that engaged in detailed due diligence to share that intellectual capital with all of the other
18 bidders. It is likely that most sophisticated bidders would not participate in the sale process
19 under those circumstances. In order to maximize TTV, a competitive, confidential auction
20 process is critical.

1 **Q. The Non-Advocate Staff's proposed Step 4 also requires bidders to provide auction-**
2 **related security as a protection against default. Do you agree that this is necessary?**

3 A. No, I do not. Requiring auction security of bidders in order to participate in the auction is
4 not industry standard and has not been for at least 20 years. As discussed above, bidders are
5 committing hundreds of thousands of dollars to the due diligence process and the need for
6 additional security is not necessary. In addition, requiring security of smaller bidders, may
7 limit their participation, but not requiring it because of small size goes against Non-
8 Advocate Staff's auction objective of fairness. Qualifying bidders in the first stage of the
9 process will ensure that they are financially and operationally capable to bid on the assets.

10 **Q. Step 5 of the Non-Advocate Staff's simultaneous ascending clock auction includes the**
11 **final bidding phase (stage). Please explain how this would work.**

12 A. First, Non-Advocate Staff recommends publically disclosing the list of the qualified bidders
13 before the auction begins. Next, the actual on-line bidding begins with all assets offered
14 simultaneously and at preliminary bid prices determined by the auction manager, the utility,
15 the auction team and publically available valuation documentation.¹⁴ Bidders then indicate
16 the assets they wish to buy at the starting prices provided. If no bids are provided, that asset
17 will not be sold. If only one bid is received, the bidder will be awarded that asset. For the
18 remaining assets, a new round 1 bid price is announced and bidders will continue to bid
19 until there is only one bidder remaining.¹⁵ For each asset that a bidder does not continue

¹⁴ Mr. Stachow response to Eversource Data Request No 1-68, October 16, 2015.

¹⁵ Testimony of Dr. Peter Cramton, at 4, lines 34-35.

1 bidding on, the bidder provides an exit bid, the highest price it is willing to pay for the
2 asset.¹⁶

3 **Q. Do you agree that the list of qualified bidders should be publically disclosed?**

4 A. No. As discussed above, a competitive process that will maximize TTV must be kept
5 confidential. Bidders may walk away from a process if they believe that their identity is
6 compromised since they do not want other parties to know that they lost a bidding process,
7 and the assets that they bid on could provide their competition with proprietary information
8 about their future strategies. In fact, most confidentiality agreements that are signed in
9 physical power plant auction processes do not allow either the buyer or the seller to disclose
10 publically (unless they are the winning bidder) that they were even involved in the sale
11 process.

12 **Q. Please explain why this process will not maximize TTV.**

13 A. There are several reasons why this process will not maximize TTV. First, the preliminary
14 bid prices, which as noted above are developed by the auction manager, may not be at all
15 related to the market price of the assets and could be set too high. Under the Non-Advocate
16 Staff's process, if bids received for an asset are lower than the preliminary bid prices, the
17 asset will go unsold.¹⁷ Leaving an asset unsold because no bidders bid the starting price is
18 clearly a recipe for a failed auction. In a competitive auction, like the one I have proposed,
19 it is the market that determines the price for the asset, not the other way around. Using the
20 indicative bid price as the starting bid price, could end the auction entirely since valuations

¹⁶ Testimony of Dr. Peter Cramton, at 4, lines 27-38.

¹⁷ Mr. Stachow response to Eversource Data Request No 1-61, October 16, 2015.

1 can greatly change after detailed due diligence is completed. Developing a preliminary
2 price based on indicative bids in a defined product auction may make perfect sense, but in
3 the auction of physical assets, it is highly problematic.

4 Second, the preliminary bid price may be set too low. In the proposed ascending
5 clock auction, if there is only one bidder for a specific asset, that bidder will win the asset at
6 the preliminary bid price even if that bidder was willing to pay more. Conversely, in the
7 multi-stage process that I proposed, bidders will not know how many other bidders are
8 bidding on each asset and will therefore bid what they believe is the market price. A
9 confidential competitive process that maximizes TTV can be maintained even with only one
10 bidder for each asset. Maintaining the competitiveness between bidders is very important to
11 maximizing TTV.

12 Finally, in the ascending clock auction process, bidders may bid too conservatively
13 and the highest price may never be realized. A bidder will only bid the minimum increment
14 over the next best bid, therefore, significant value may be lost if a bidder's market price for
15 the asset is higher.

16 **Q. Please explain why the Non-Advocate Staff's final step in the proposed ascending clock**
17 **auction process is missing important steps and provides for insufficient timing.**

18 **A.** The final step of the proposed ascending clock auction is missing a very important part of
19 the auction process: the negotiation phase (stage). The negotiation phase (stage) as I have
20 outlined ensures that TTV is achieved. If there are two similar bids for one asset, bidders
21 will be asked to improve their bids if possible. Allowing for that bid improvement ensures
22 that no money was left on the table and TTV is maximized. Lack of transparency is avoided
23 because as stipulated in the Settlement, the Commission is part of the process.

1 Dr. Cramton states of the Commission approval process that “the Commission
2 review happens as quickly as possible. Typically, this is about two weeks”.¹⁸ It is
3 impractical and naïve to believe that the approvals for the sale of power plant assets could
4 happen in less than four months, let alone two weeks. In my experience, the approval
5 process at state commissions could take four to eight months and could take at least that
6 long at the Federal Energy Regulatory Commission (“FERC”) depending on the buyer of
7 the assets. If the buyer has any issues related to market power, the FERC process could take
8 even longer. There may be other necessary approvals as well, including the Security
9 Exchange Commission approvals and other permit transfers that must be obtained before
10 closing is possible. For example, the approval process for Seabrook took over six months
11 and the approval process for the Boston Edison fossil assets took over five months.

12 **Q. Dr. Cramton states that the ascending clock auction will ultimately “curtail bidders’**
13 **tendency to bid very conservatively in order to avoid the ‘Winners Curse’”.¹⁹ Do you**
14 **agree that this could be an issue?**

15 **A.** No, I do not. In my 20 years working with bidders to buy and sell power plant assets, the
16 “Winners curse” has not been an issue. In fact, in my experience, bidders that wish to
17 acquire the assets are more likely to bid aggressively in order to win the assets, rather than
18 bid conservatively. As addressed above, an issue with the ascending clock auction is that it
19 could encourage bidders to bid conservatively if they know they are the only bidder
20 participating in the auction. Finally, the auction manager’s communications and
21 relationships with the bidders throughout the process (indicative bid phase (stage), final bid

¹⁸ Testimony of Dr. Peter Cramton, at 4, line 25.

¹⁹ Testimony of Dr. Peter Cramton, at 7, lines 11-17.

1 phase (stage) and negotiation phase (stage)) are critical to a well-managed auction where
2 bidders know what they are purchasing and are comfortable with their valuations.

3 **Q. Professor Cramton cites to a number of examples of the use of simultaneous ascending**
4 **clock auctions. Do you have any comment?**

5 A. Yes. Despite being asked in a half-dozen data requests to identify even one sale of utility
6 generation assets that used the simultaneous ascending clock auction process, Dr. Cramton
7 could not do so. The examples provided by Dr. Cramton are financial auctions that cannot
8 be compared to the actual sale of a physical power plant. For instance, the auction of
9 forward capacity for the New England ISO or radio spectrum cannot be compared to the sale
10 of actual functioning, metal in the ground assets that involve unique characteristics such as
11 real estate, environmental, and employee protection issues. The forward capacity auction
12 sells a straightforward defined product that does not involve hundreds of moving parts. As
13 noted above, although the ascending clock auction process has been in existence for over 20
14 years, it has never been exclusively used to sell a physical power plant.

15 **Q. What do you conclude about the proposed ascending clock auction process?**

16 A. If the Commission were to agree to this type of auction process, it would most certainly lead
17 to a failed auction or a greatly discounted TTV. The multi-stage auction process initially
18 envisioned in the Agreement and expanded in my Direct Testimony is the accepted industry
19 standard auction process that the market knows and welcomes and will ultimately maximize
20 TTV.

21 **Q. Does this conclude your Rebuttal Testimony?**

22 A. Yes, it does.