

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DRM 15-340

EVERSOURCE ENERGY

**Request for Rulemaking Pursuant to Puc 205.01 and 205.03 – Avoided Costs for
Mandatory Purchases Under PURPA and LEEPA**

Order Denying Request

ORDER NO. 25,814

September 18, 2015

We deny Eversource Energy's request for a rulemaking as premature.

I. PROCEDURAL HISTORY

On August 21, 2015, Public Service Company of New Hampshire, d/b/a Eversource Energy (Eversource), requested that the Commission open a rulemaking to establish requirements and avoided cost rates for the purchase of energy and capacity from qualified facilities (QFs) under the Public Utility Regulatory Policies Act of 1978 (PURPA). Eversource made its request pursuant to RSA 541-A:4 and N.H. Code Admin. Rules Puc 205.03. In accordance with Puc 205.03, Eversource attached proposed rules. Granite State Hydropower Association (GSHA) filed an objection on September 4, 2015. Information concerning Eversource's request may be found at the following link:

<http://www.puc.nh.gov/Regulatory/Docketbk/2015/15-340.html>.

II. POSITIONS OF THE PARTIES AND STAFF

A. Eversource

Eversource's request for a rulemaking was precipitated by GSHA's challenge to the avoided cost provisions contained in the settlement agreement (the 2015 Settlement Agreement)

being reviewed in Docket No. DE 14-238 (the Asset Proceeding). Eversource states that the avoided cost provisions in the 2015 Settlement Agreement are substantially the same as the avoided cost provisions included in the 1999 PSNH Restructuring Agreement in Docket No. DE 99-099. Eversource also states that avoided cost provisions were included in the 2015 Settlement Agreement to maintain the status quo until the Commission determines that some other methodology should be implemented.

Eversource proposes two main justifications for opening a rulemaking on PURPA avoided costs at this time: administrative efficiency and fairness to Eversource. Eversource believes that a rulemaking would be administratively efficient because RSA 369-B:3-a requires the Commission to expedite the Asset Proceeding. Eversource fears that, without a separate rulemaking, the Commission may not be able to conduct an expedited and focused examination of the core issue in the Asset Proceeding, which is Eversource's ownership and disposition of generating assets. Eversource states that the type of information and analysis needed by the Commission to make an avoided cost determination is fairly attenuated from the multiple issues surrounding this core inquiry.

With regard to fairness, Eversource believes that the avoided cost standard is a generic standard affecting all PURPA-jurisdictional utilities, that all of those utilities will be operating in a similar manner "going forward," and that a separate proceeding is necessary to ensure uniformity in establishing avoided costs for all utilities. Eversource believes that it would be discriminatory against Eversource if the Commission were to approve GSHA's methodology for determining Eversource's avoided costs in Docket No. DE 14-238, because that methodology is different from the tariffed rates approved by the Commission for other New Hampshire electric utilities, and for Eversource.

B. GSHA

GSHA states that there is significant disagreement between GSHA and Eversource regarding the calculation of Eversource's avoided costs for mandated PURPA purchases. According to GSHA, the definition of avoided costs in the 2015 Settlement Agreement does not reflect the actual costs incurred by Eversource to serve its default service customers, and, consequently, is unlawful. GSHA claims that an adjudicative proceeding is necessary to determine whether the 2015 Settlement Agreement is consistent with New Hampshire law and policy.

GSHA argues that the Commission should deny Eversource's request for a rulemaking, because (1) the avoided cost issue should be litigated, (2) a generic rulemaking is inappropriate because Eversource's avoided costs are unique, (3) avoided costs are addressed in the 2015 Settlement Agreement and must therefore be considered in Docket No. DE 14-238, and (4) a separate rulemaking docket would be inefficient, duplicative, and unfair.

III. COMMISSION ANALYSIS

Pursuant to RSA 541-A:4 and Puc 205.03, the Commission must, within 30 days of receipt of Eversource Energy's request, either grant the request and initiate a rulemaking, or deny the request and state its reasons for denial. The Commission denies Eversource's request for a rulemaking as premature.

Eversource's administrative efficiency justification is based on the unstated assumption that, if we were to open a rulemaking, the issue of Eversource's avoided costs would no longer be litigated in DE 14-238. However, the avoided cost methodology to which GSHA takes exception remains a term of the 2015 Settlement Agreement, which the Settling Parties have asked the Commission to approve. We could not fairly allow the Settling Parties to require

approval of a term in the 2015 Settlement Agreement without granting affected parties the opportunity to litigate the issue. Moreover, we do not believe that we could adequately consider stakeholder input and complete a rulemaking on PURPA avoided cost issues before we issue a final ruling in the Asset Proceeding. No administrative efficiency would be gained in the Asset Proceeding by opening a separate rulemaking docket.

Eversource's fairness argument is premised on the assumption that, going forward, all New Hampshire electric utilities will operate in a similar manner; that is, as distribution-only utilities purchasing all of their default service requirements in the market. We are not there yet. The Commission must first consider whether to approve the divestiture of Eversource's generation assets, either by approval of the 2015 Settlement Agreement pursuant to RSA 369-B:3-a, II, or following further litigation pursuant to RSA 369-B:3-a, III. Unless and until the Commission approves divestiture and a uniform method for purchasing default service requirements, Eversource and New Hampshire's other electric utilities are not necessarily similarly situated. Accordingly, because PURPA avoided cost payments remain a term of the 2015 Settlement Agreement and because Eversource's fairness argument is premature, the Commission denies Eversource's request for a generic rulemaking at this time.

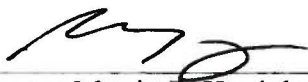
We recognize that the determination of PURPA purchase obligations and avoided cost rates are important issues that may need to be revisited. We also recognize that there are more parties interested in these issues than those participating in the Asset Proceeding. Therefore, if there remains an interest in revisiting PURPA obligations following the completion of the Asset Proceeding, we will open a generic avoided cost docket. In that docket, interested parties will be permitted to litigate generally applicable requirements and the avoided cost rate methodology or methodologies for utility purchases of QF power pursuant to PURPA. In the meanwhile, each of

our utilities, including Eversource, has a tariffed methodology on file for determining PURPA avoided cost rates.

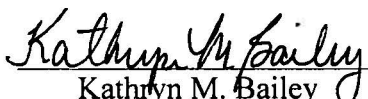
Based upon the foregoing, it is hereby

ORDERED, that Eversource Energy's request to open a rulemaking is **DENIED**.

By order of the Public Utilities Commission of New Hampshire this eighteenth day of September, 2015.



Martin P. Honigberg
Chairman



Kathryn M. Bailey
Commissioner

Attested by:



Debra A. Howland
Executive Director

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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