

**THE STATE OF NEW HAMPSHIRE**

**PUBLIC UTILITIES COMMISSION**

**DE 16-187**

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

Auction of Electric Generation Facilities

**COMMENTS OF THE TOWN OF BRISTOL AS AN INTERVENOR REGARDING THE  
PROPOSED AUCTION PROCEDURE AS SET FOR BY J.P. MORGAN**

NOW COMES, the Town of Bristol, New Hampshire (“Town”) in its capacity as an intervenor in the above-captioned matter in order to provide its Comments on the proposed auction procedure, as proposed by J.P. Morgan, for the prospective sale of the generation assets of Public Service of New Hampshire d/b/a Eversource Energy (“PSNH”) and in support of same state the following:

1. The Town is aware that other municipal intervenors are providing extensive comments as to this procedure. The Town just recently filed to be an intervenor in the above-captioned docket but, understands that other municipalities have actively participated in prior dockets before the N.H. Public Utilities Commission (“Commission”) which ultimately led to the current matter before the Commission. As such, these other municipalities possess much more historical information on the development of the current docket from which they are able to provide more context to the pending matter as well as assert multiple positions that were formed over several months while addressing the preceding dockets. Therefore, the Town supports and assents to the Comments provided by such municipalities as Berlin and/or Gorham. In addition, the Town does not wish to provide duplicative information or argument so, the following Comments are merely intended to be additional items for the Commission’s consideration and

are presented for the purpose of being supplemental to the other Comments by municipal intervenors in this docket.

2. The Town's interest in this case involves a hydro-electric facility that is located in both the towns of Bristol and New Hampton. This facility is commonly known as Ayers Island and has a nameplate capacity of 8.4 MW. Ayers Island has a current tax assessment value of \$6,713,000 for its portion located within the Town of Bristol and constitutes a significant portion of the Town's tax base in such a small community. The Town maintains a traditional form of town meeting which occurs in March of every calendar year. The preparation for each annual town meeting requires a considerable amount of time from the Town's administrative staff, the Board of Selectmen and the Budget Committee during the months leading up to said event. Consequently, the availability of most Town officials from the end of the calendar year through the beginning of the new year is often limited due to the demands of the budgetary process leading up to town meeting.

3. The Town's intervention in the pending docket has two purposes: a) to ensure that the Town's tax base is protected by this process which should be implemented in order to produce the highest sale price possible; and b) provide an opportunity for the residents of Bristol to participate in a possible purchase of Ayers Island if such sale is in the best interest of the Town. As such, the Town's Comments are predicated on these two goals while understanding the needs of other parties as well as their own interests in this unprecedented sale of the generation assets of the State's largest utility.

I. THE TOWN'S ISSUES WITH J.P. MORGAN'S PROPOSED PHASE I PORTION OF THE AUCTION DESIGN AND PROCESS.

4. The auction company is proposing that Phase I of the sale should occur within an approximate six (6) week window starting in mid-November and ending in late December of 2016. The purpose of Phase I is to produce soft bids (non-binding bids) in order to allow J.P. Morgan to understand the interest in such assets from which this hopefully large group of interested parties shall be culled down to between five to ten of the highest and most responsible bidders who shall then be allowed to enter into Phase II of the auction process. It is the understanding of the Town that J.P. Morgan shall treat any municipal bidders in a different fashion from all others in that said municipal bidders shall automatically be qualified to enter into Phase II (apparently, regardless of the nature or extent of their initial soft bids).

5. While the Town appreciates the special status bestowed upon it by J.P. Morgan, the process still poses an insurmountable obstacle for the municipality to even participate in the soft bid portion of this process. New Hampshire law requires that a town may only proceed with pursuing the purchase of an electric generation facility by first obtaining an affirmative 2/3 majority vote of an annual or special town meeting. *See N.H. Rev. Stat. Ann. §38:4.* Consequently, the Town simply does not have the authority or ability to even submit a soft bid until the Town's legislative body votes by a super majority for it to do so. Further, the process by which to call for a special meeting will require a substantial amount of time due to a number of events which will need to occur prior to said meeting.

6. First, the Town's Board of Selectmen (which is comprised of five members) will need to schedule a series of meetings in order to discuss the merits of pursuing this asset. Second, the facility is located in two towns so naturally there will need to be discussions between



the two governing bodies as to whether there is any interest in co-ownership of the property. Third, the Town is likely to conduct a series of informational meetings, prior to the special town meeting, in order to educate the public as to the benefits and burdens of owning this facility as well as to answer questions or criticisms that the residents may have on this subject. Lastly, a special town meeting will need to be noticed and conducted in order to receive the necessary authority to submit any sort of soft bid. As anyone can clearly see, there simply is no way in which all of the above-stated events could occur within a six week window of time.

II. THE TOWN'S ISSUES WITH J.P. MORGAN'S PROPOSED PHASE II PORTION OF THE AUCTION DESIGN AND PROCESS.

7. The auction company proposes that beginning in January, 2017 the second phase of the auction shall start and last for approximately eight (8) weeks. The proposed schedule shows that Phase II shall come to a close in either late February or early March of 2017. During this portion of the auction, bidders will be expected to provide binding offers for such assets and be prepared to begin negotiations for the final sale of same. While the municipalities are expected to be pre-qualified for participation in Phase II, those same municipalities shall need to now have the capability of providing a binding bid as well as be prepared to finalize the sale if J.P. Morgan determines any such municipality as the winner of the auction.

8. In order for the Town to actively participate in Phase II of the auction, the Town would need to comply with RSA 38 by conducting a second town meeting which serves to authorize the sale price as well as approve the funding of said purchase. *See N.H. Rev. Stat. Ann. §38:13.* Given that the annual meeting of the Town typically occurs in mid-March, the Town would need to call another special town meeting as the only way to achieve such authority within the confines of J.P. Morgan's schedule. At this point in the process, the Town will have needed

to perform all the preparation for the initial special town meeting as well as conduct the meeting in order to participate in Phase I. It will then need to perform similar tasks, as described above, in terms of meetings with the Board of Selectmen, joint meetings between the Bristol and New Hampton Boards of Selectmen and additional informational sessions prior to the second special town meeting. After all of that, the Town would then notice and perform the second town meeting in which another affirmative 2/3 vote would be needed (as bonds are likely to be required for the purchase) to proceed with any sort of binding bid. Once again, it is plainly evident that the Town would have no perceivable opportunity to perform all of these acts within the prescribed timeframe of the J.P. Morgan schedule. In essence, every municipality would be prohibited from participating in this auction process.

III. THE TOWN'S PROPOSAL TO ADDRESS THE CONCERNS OF THE MUNICIPALITIES WHILE TRYING TO PRESERVE MOST OF THE J.P. MORGAN SCHEDULE.

9. The Town understands that the statutory requirements of RSA 38 impose a lengthy timeframe for the purchase of such assets by any municipality which have no relation to the typical timeframe of such purchases in the private sector. Also, the Town wishes to be a positive voice and has no intention of being merely an obstructionist in this process. Therefore, the Town proposes the following recommendations that hopefully will address the concerns of the municipalities while trying to maintain an expedient process for this auction.

10. To begin with, the Commission will need to bifurcate its adjudicatory process for the approval of any auction schedule. So, the first step in this process would require the Commission conducting a hearing for the limited purpose of approving the Phase I portion of the auction process. The Commission would then conduct a subsequent hearing, after the



completion of Phase I, to determine the remaining schedule. The reasons for this shall be revealed as the entire proposal is set forth below.

11. The six week period for Phase I may be achievable if the Commission will allow the municipalities to forego the submission of a soft bid. Instead of submitting a soft bid (and having to perform a special town meeting), the municipalities could simply qualify to enter into Phase II by providing an Assessment of Fair Market Value. Now, the municipalities could simply provide the tax assessment for such property or submit some other value that any town or city feels is consistent with the fair market value of any particular asset. Regardless of the source of such a figure, the submission simply ensures that any municipality may enter into Phase II without having to endure the requirements set forth in RSA 38.

12. Upon the conclusion of Phase I, J.P. Morgan shall analyze all of the bids and determine the number of bidders to enter into Phase II. As part of this process, the auction company shall consult with any municipal participants and advise them as to where their Assessment of Fair Market Value stands in contrast to the soft bids that qualify for entry into Phase II. Of course, the auction company will not be required to divulge any confidential information (such as names, bid prices or anything else that would compromise the auction process). The expectation would be that J.P. Morgan would simply let the towns/cities know where their number ranks in respect to the others in the pool. For example, if J.P. Morgan chooses 10 bidders for Phase II, for the Ayers Island facility, then it would simply tell the Town how many soft bids (of the 10) were above the Town's Assessment of Fair Market Value.

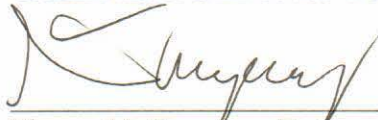
13. The Commission would then conduct another adjudicatory hearing to determine the remaining schedule of the auction. At this point, the municipalities will have a better

understanding of their chances as potential bidders for such assets. Speaking only for the Town of Bristol, if the Town learns that 8 of the 10 bidders have submitted higher bids than the Town's number then, the Town is likely to not pursue a purchase of the facility. On the other hand, if only 2 of the 10 bidders are higher than the Town's number then, there is a greater likelihood that the Town will continue to participate in the next round. Basically, the purpose behind this proposal is to determine the extent of municipal participation in Phase II of the auction. If all goes well in terms of the bidding numbers for the hydros, municipal participation in Phase II may be non-existent. If so, then the Commission may determine, at its second adjudicative hearing, that J.P. Morgan's schedule for Phase II is reasonable and proceed accordingly. If the municipalities remain as active bidders in Phase II then, additional time will be needed for Phase II in order to provide the municipalities with sufficient time to accomplish the statutory requirements of RSA 38. Simply put, the municipalities require a timeframe well beyond that provided by J.P. Morgan so, the most expedient manner in which to address that is to gauge municipal participation before putting forth the remaining schedule for this sale.

Respectfully Submitted,

Town of Bristol, New Hampshire  
By and through its legal counsel:

GARDNER FULTON & WAUGH, PLLC



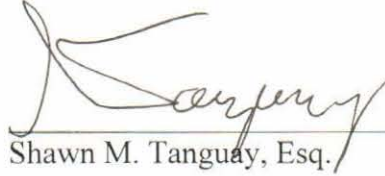
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Shawn M. Tanguay, Esq.  
NH Bar ID #14255  
Gardner Fulton & Waugh, PLLC  
78 Bank Street  
Lebanon, NH 03766  
(603) 448-2221  
[stanguay@townandcitylaw.com](mailto:stanguay@townandcitylaw.com)

Date: September 30, 2016

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of September, 2016, a copy of the foregoing was sent by electronic mail to persons named on the Service List of this docket pursuant to N.H. Code of Admin. Rule Puc 203.11(a)(1).

  
Shawn M. Tanguay, Esq.