

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 17-075

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
D/B/A EVERSOURCE ENERGY**

Reconciliation of Energy Service and Stranded Costs for Calendar Year 2016

Order Approving Petition

ORDER NO. 26,238

April 25, 2019

APPEARANCES: Matthew J. Fossum, Esq., on behalf of Public Service Company of New Hampshire d/b/a Eversource Energy; the Office of the Consumer Advocate by Brian D. Buckley, Esq., on behalf of residential ratepayers; and Suzanne G. Amidon, Esq., on behalf of Commission Staff.

In this order, the Commission approves the reconciliation of Eversource's stranded cost recovery charges and energy service charges for 2016. The approval includes the addition of \$3.4 million to the revenue requirement for calculation of the stranded cost recovery charge rate. Eversource paid \$3.4 million in a 2016 settlement of a shipping contract, and that amount will be added to the calculation of the stranded cost recovery rate for effect on a service rendered basis on August 1, 2019.

I. PROCEDURAL HISTORY

On May 1, 2017, Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource or the Company) filed testimony with related schedules and exhibits in support of a proposed reconciliation of revenues and costs associated with its stranded cost recovery charge (SCRC) and its energy service (ES) rate for calendar year 2016.

The SCRC is the mechanism Eversource uses to recover certain restructuring-related stranded costs as allowed under the 1999 Agreement to Settle PSNH Restructuring

(Restructuring Settlement) approved by the Commission. *See, PSNH Proposed Restructuring Settlement*, Order No. 23,433 (April 19, 2000); Order No. 23,549 (September 8, 2000); Order No. 23,563 (September 29, 2000); *see also Public Service Co. of N.H.*, Order No. 24,125 (February 14, 2003) (approving the Company's initial SCRC reconciliation, which covered the period from May 1, 2001, the date on which the Eversource service territory was opened to retail competition under the Restructuring Settlement, through December 31, 2001).

Prior to divestiture, Eversource recovered the costs of providing power from its generating units and its supplemental power purchases through the energy service rate. In *Public Service Co. of N.H.*, Order No. 24,579 (January 20, 2006), the Commission determined that the reconciliation of revenues collected and prudently incurred costs associated with default energy service would be reconciled in the ES rate.

The Office of the Consumer Advocate (OCA) filed a letter of participation in this proceeding pursuant to RSA 363:28 on June 12, 2017. The Commission issued an Order of Notice on July 7, 2017, scheduling a Prehearing Conference on July 27, 2017.

Following a period of discovery, Eversource filed a Motion for Confidential Treatment related to a document requested by the OCA. The procedural schedule was suspended for resolution of that matter, and subsequently Staff proposed a hearing date for January 11, 2019, which was approved by the Commission. Eversource filed a second Motion for Confidential Treatment on December 20, 2018. The Commission granted both Motions for Confidential Treatment at the hearing held on January 11, 2019.

The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2017/17-075.html>.

II. POSITIONS OF THE PARTIES AND STAFF

A. Eversource

In 2016, energy service included the fuel costs associated with Eversource's generation, as well as costs and revenues from the purchases and sales of energy and capacity. Also included are costs related to the Renewable Portfolio Standard (RSA 362-F) and the Regional Greenhouse Gas Initiative. *See* RSA 362-F and RSA 125-O, respectively. Energy costs included costs associated with Independent Power Producer power valued at market prices; revenue requirements of generation such as a non-fuel operation and maintenance; depreciation, property taxes, and payroll taxes; and a return on net generation investment.

Eversource is required to provide energy service to those customers in its franchise area who do not choose to obtain energy service from a competitive supplier. Until divestiture was completed,¹ the ES rate for all retail customers was based on the Company's forecast of the actual, prudent, and reasonable costs of providing energy service. RSA 369-B:3, IV(b)(1)(A).

To develop energy service rates, Eversource prepared an annual forecast of energy costs and proposed rates for the next calendar year, with rates to be effective on a service-rendered basis, beginning January 1 of each year. The Company included the estimated costs and revenues in its calculation of ES and SCRC rates for the calendar year, and updated the forecast and ES rates for purposes of implementing a mid-year adjustment for effect on a service-rendered basis on July 1 of each year. Eversource then filed a reconciliation of estimated costs

¹ In Docket No. DE 14-238, the Commission approved the 2015 PSNH Restructuring Settlement Agreement. This Settlement Agreement directed the completion of Eversource's divestiture of its generation assets, changed the way Eversource procures and prices ES for customers who have not selected a competitive supplier, and modified the costs and revenues eligible for recovery through the SCRC. *See Public Service Co. of N.H.*, Order No. 25,920 (July 1, 2016).

and revenues with actual costs and revenues for the prior calendar year on May 1 of each year, with the rate effective July 1.

The May 1, 2017, filing represents the reconciliation of the SCRC and ES costs and revenues for calendar year 2016. In pre-filed testimony, Eversource provided an overview of the reconciliation between the revenues and expenses reported in the Company's ES and SCRC filings for the twelve-month period from January 1 through December 31, 2016.

Eversource testified that the Commission approved a temporary rate of 1.72 cents per kilowatt hour (kWh) in *Public Service Co. of N.H.*, Order No. 25,854 (December 22, 2015) to recover costs associated with the installation of a wet flue desulphurization unit (Scrubber) at Eversource's Merrimack Station. That rate was converted to a permanent rate by operation of Order No. 25,920 in Docket No. DE 14-238. According to Eversource, due to customer migration to competitive suppliers, the 1.72 cents per kWh rate fell short of recovering all 2016 Scrubber-related costs and failed to recover one-seventh of previously deferred Scrubber costs. The May 1, 2017, filing reflects that under-recovery in the calculation of the ES reconciliation for 2016.

Eversource stated that the Company experienced a net adjusted under-recovery balance in the SCRC of \$127 million as of December 31, 2016, and that the net adjusted under-recovery was due primarily to deferred Scrubber costs of \$112.9 million, the amount of Scrubber costs incurred in excess of the temporary rate recovery. The remaining \$14.2 million non-Scrubber under-recovery was due to (1) actual energy revenue \$2.7 million lower than forecasted (primarily due to customer migration); (2) fuel costs \$8.9 million higher than forecasted; (3) net purchases \$2.3 million higher than forecasted; (4) return on rate base \$1.3 million higher than forecasted; (5) \$0.8 million in other expenses; and (6) \$3.4 million in contract settlement costs.

Those amounts were partially offset by approximately \$5.2 million in lower than forecasted costs. In its filing, Eversource proposed recovery of those costs from customers.

At hearing, James Daly, Vice President of Energy Supply for Eversource, testified about the \$3.4 million contract settlement. Mr. Daly said he is familiar with the contract settlement and explained that it relates to a coal transportation contract between Eversource and Canadian Steamship Lines (CSL). Hearing Transcript of January 9, 2019 at 37 (“Tr.”). Mr. Daly stated that the contract was executed in 2007 for the purpose of transporting coal from two ports in Venezuela and one port in Columbia. *Id.* The contract envisioned that CSL would ship 22 cargoes over a period of five years. According to Eversource, the contract was drafted to allow for the shipment of approximately 200,000 tons of coal per year, which equaled about 20% of the total annual tonnage used by Eversource prior to 2007. Mr. Daly testified that Eversource selected the ports to allow it flexibility to ship coal from various South American mines. The Company calculated that purchasing coal from South America, instead of domestically, saved customers approximately \$20 million. *Id.* at 38-39.

Mr. Daly recounted that starting in about 2007, the demand for coal started to decline as shale gas became more and more available for use in producing power. *Id.* at 39. By the time the five-year term of the initial contract expired, Eversource had shipped only six of the 22 cargoes. Eversource, with the concurrence of CSL, extended the contracted deliveries for an additional five years, and under this extension, Eversource received an additional five cargoes, or a total of 11 out of the original commitment of 22 cargoes. *Id.* at 39-40.

By 2016, the demand for coal had declined, but CSL nonetheless was prepared to extend deliveries into the future to fulfill the contract requirements. *Id.* at 40. However, by that time, Eversource had announced its plan to divest its generation assets and would not need the

remaining quantities of coal. Around March 2016, CSL demanded payment for the remaining cargoes of coal. *Id.* at 41.

Eversource and CSL entered negotiations and agreed to an arrangement whereby Eversource would pay CSL for nine of the remaining eleven shipments due under the contract, and CSL would forgive payment for two shipments. According to Mr. Daly, CSL's rationale for forgiving the two shipments was based on a calculated risk in the event Eversource went to full dispute resolution under arbitration. *Id.* at 41-42. Mr. Daly claimed that the arrangement provided a "very good solution to the situation," and highlighted the "significant due diligence" done on the part of Eversource to "represent customers." *Id.* at 42. Mr. Daly said that the agreement included a combination of delay, negotiation, mitigation, and forgiveness, which are all the techniques Eversource uses to reduce the size of the payments to such entities as CSL. Eversource concluded that its settlement of the shipping contract was prudent and reasonable and recovery of the costs associated with the settlement should be recovered through rates. *Id.* at 53 and 152.

B. OCA

The OCA argued that the Commission should not allow recovery of the costs associated with Eversource's shipping settlement from ratepayers. According to the OCA, Eversource made a series of mistakes that led to the Company purchasing coal that was never delivered to or used by Eversource. In addition, the OCA claimed that Eversource failed to carry its burden of proof by providing witnesses who were unable to speak to documents provided in discovery. *Tr.* at 141.

The OCA stated that Eversource's coal-purchase contracts with mines in Venezuela and Columbia constituted a significant portion of the Company's supply portfolio, and was

inconsistent with Liberty Consulting's recommendations (Hearing Exhibit 4) regarding Eversource's coal purchases. The OCA noted that Eversource's witnesses were unable to testify that the proper procurement processes were used for either the coal contract or the related shipping contract. *Id.* at 142. The OCA argued that Eversource's decision to purchase such a large quantity of coal, and its decision to enter into the shipping contract with CSL, were imprudent, and that the associated costs should not be recovered from customers. *Id.* at 143 and 146.

C. Staff

Staff concurred with the OCA's argument and recommended that the Commission disallow Eversource from recovering the \$3.4 million associated with settlement of the shipping contract from customers through SCRC rates. *Tr.* at 146.

III. COMMISSION ANALYSIS

First, we address the issue regarding the proposed recovery of \$3.4 million associated with settlement of the CSL contract. We have carefully reviewed the record and testimony and have determined that Eversource acted in the best interest of customers in settling the contract. When Eversource entered into the contract in 2007, it was not reasonably foreseeable that the availability of natural gas would increase and the price of gas would decrease over the course of the contract. As Eversource also stated, it could not have been foreseen in 2007 or 2012 that Eversource would divest its generation units. When the agreement was signed, and the extension negotiated, Eversource expected to continue operating the coal burning units at Merrimack Station and Schiller Station.

In addition, we are persuaded that Eversource acted prudently in using a combination of delay, negotiation, mitigation, and forgiveness in settling the CSL contract. Divestiture was

imminent at the time the contract was settled in 2016, and we find that Eversource appropriately mitigated the costs to customers by agreeing to the settlement. Without such settlement, costs could have included the two additional shipments Eversource originally contracted and the resulting stranded costs would have been that much greater. Therefore, we find that Eversource exercised prudence in negotiating the settlement of the contract, and Eversource is authorized to recover the costs through the SCRC.

Based on the Restructuring Settlement, Eversource was obligated to use its generation fleet for the provision of its energy service and may recover its “actual, prudent, and reasonable costs” in connection with such use of those facilities. RSA 369-B:3, IV(b)(1)(A) (noting that this obligation remains effective until such time as Eversource may divest its generation fleet). To the extent that Eversource procured retail energy from other sources, we review the prudence of those costs as well.

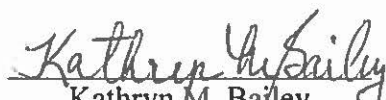
We have reviewed the testimony and the record in this proceeding, and based on our review, we find that the reconciliation, including the addition of \$3.4 million in settlement of the CSL shipping contract, reflects the actual, prudent, and reasonable costs incurred by Eversource in providing energy service to its customers, and that the reconciliation of stranded costs is appropriately calculated. We understand that Eversource will include the costs associated with the CSL contract termination, which have been excluded from rates while this matter was pending, in SCRC rates effective August 1, 2019.

Based upon the foregoing, it is hereby

ORDERED, that the Eversource reconciliation of 2016 energy and stranded costs, and the recovery of \$3.4 million in costs associated with the settlement of the CSL contract in rates is hereby APPROVED; and it is


FURTHER ORDERED, that Eversource is ordered to file tariff pages conforming to this order no later than July 1, 2019.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of April, 2019.


Kathryn M. Bailey
Commissioner


Michael S. Giaimo
Commissioner

Attested by:


Debra A. Howland
Executive Director

