

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

Docket No. DE 17-124

Public Service Company of New Hampshire d/b/a Eversource Energy
Sale of Generating Facilities

**JOINT MOTION FOR DISCOVERY CONFERENCE
AND RULES WAIVER**

Public Service Company of New Hampshire d/b/a Eversource Energy (“PSNH”), J.P. Morgan Securities LLC (“JP Morgan”) and Commission Staff (“Staff”) (collectively the “Auction Parties”) jointly move for the Commission to schedule a discovery conference early next week for purposes of resolving any outstanding discovery disputes, and jointly request a waiver of certain Commission procedural rules in order to schedule the discovery conference.

1. On October 24, 2017, the City of Berlin, the Town of New Hampton, and the Town of Bristol (collectively, the “Municipal Intervenors”) issued their Joint Data Requests to the Auction Parties in the above-captioned docket, attached as Exhibit A.
2. On October 25, 2017, pursuant to Rule Puc 203.09(g), the Auction Parties objected to certain of the Municipal Intervenors’ questions (the “Objection”) attached as Exhibit B.
3. The Auction Parties intend to answer the vast majority of the 80 data requests propounded by the Municipal Intervenors no later than Friday, October 27, 2017, except for those six Data Requests identified in the Objection.

4. The procedural schedule ordered by the Commission in this docket requires answers to data requests and a follow-up Technical Session on November 8, 2017, with intervenor testimony due on November 15, 2017.
5. As stated in the Order of Notice for this proceeding, “RSA Chapter 369-B and the Settlement Agreements, as well as the needs of the marketplace, require this to be an expedited proceeding... .” The Legislature stated it even more forcefully – “Time is of the essence.” RSA 369-B:1, XIV.
6. If closing on the sale of PSNH’s thermal assets is delayed beyond January 1, 2018, customers stand to lose significant value. *See* Section 2.6(a)(iv) and Schedule 2.6(a)(iv) of the Purchase and Sale Agreement between PSNH and Granite Shore Power LLC.
7. In order for the process to continue on this expedited schedule, as required by New Hampshire law and as ordered by the Commission, discovery disputes must be resolved promptly to allow parties time to prepare follow-up questions and testimony.
8. Commission Rules N.H. Code of Admin. R. Puc 203.09 provides for time to object and to move to compel data responses and Puc 203.07 provides time to object to motions. Those time periods collectively provide 15 business days for motions to compel (which in the instant case could delay the proceeding by over 3 weeks due to the Veterans’ Day holiday) and 10 days to object to such motions. The delays potentially imposed by following the existing rules could extend the initial discovery phase of this proceeding into December - - after the scheduled hearing dates set forth in the procedural schedule.
9. The Auction Parties have responded expeditiously to the Municipal Intervenors’ data requests, and will work in good faith to resolve all disputes with the Municipal Intervenors over the scope and extent of the Data Requests objected to. Nonetheless, it is possible that

not all disputes will be resolved. The Auction Parties and Municipal Intervenors have already discussed the data requests and objections thereto in an effort to resolve outstanding issues. However, it appears that despite the good faith efforts of both the Auction Parties and Municipal Intervenors, it is unlikely (but possible) that all disputes will be resolved without Commission intervention.

10. Therefore, the Auction Parties request that the Commission schedule a discovery conference chaired by a Commissioner early next week (October 30-November 1) to expeditiously address remaining discovery disputes and for the Commission to issue any guidance needed on the scope of discovery in order to facilitate the legally-mandated expedited process in this docket. Such discovery conferences have been utilized by the Commission in previous dockets, such as Docket No. DE 10-195, “Petition for Approval of PPA with Laidlaw Berlin BioPower” and Docket No. DE 04-08, “Re City of Nashua/Pennichuck Water.”
11. The Auction Parties believe a waiver pursuant to Puc 201.05 is warranted under the circumstances. Under that Rule, the Commission shall waive any of its rules if it finds: (1) The waiver serves the public interest; and (2) the waiver will not disrupt the orderly and efficient resolution of matters before the commission.
12. In the instant case, waiver of the procedures set forth in Puc 203.07(e) (calling for objections to a motion to be in writing and filed within 10 days of the date on which the motion is filed) and Puc 203.09(i) (calling for motions to compel to be filed in writing per 203.07 and to be made within 15 business days of receiving the applicable response or objection) clearly meet the standards for waiver set in Puc 201.05.
13. As noted earlier, the Legislature has mandated that this docket proceed on an expedited basis and has determined as a matter of law that “time is of the essence.” These statutory

pronouncements address both requirements of Puc 201.05. The potential loss of millions of dollars in transaction value – dollars that ultimately must be paid by retail customers, demonstrates the wisdom of the Legislature’s mandates.

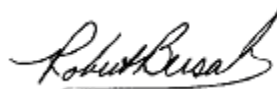
14. The discovery conference requested will give all Parties an opportunity to make their arguments in regarding the propriety of any outstanding discovery dispute, to receive immediate decisions concerning any answers required for this docket, and to preserve the value of the auction process for customers.

WHEREFORE, the Auction Parties jointly move this Commission to:

- a. Waive the requirement of Puc 203.07(e) regarding any objection to this instant Motion;
- b. Waive the requirement of Puc 203.09(i) regarding the necessity of written Motions to Compel and modify the otherwise applicable 15 business day period for the filing of any such Motion to Compel;
- c. Schedule a discovery conference chaired by a Commissioner;
- d. And, to order such other relief as deemed necessary and proper by the Commission.

Respectfully submitted on behalf of

the Auction Parties by:



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CERTIFICATE OF SERVICE

I certify that on this date I caused this Motion to be served on parties listed on the Commission's service list for this docket.

October 26, 2017

A handwritten signature in black ink, appearing to read "Robert A. Bersak", written in a cursive style.

Robert A. Bersak