

THE STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

**Investigation to Determine Rate Effects of Federal and
State Corporate Tax Reductions**

Docket No. DE 18-049

**Supplemental Technical Statement of Christopher J. Goulding on Behalf of
Public Service Company of New Hampshire d/b/a Eversource Energy**

June 26, 2018

On January 3, 2018, the Commission issued Order No. 26,096 (January 3, 2018) in Docket No. IR 18-001. That Order required, in relevant part:

Each utility shall file a proposal with the Commission no later than April 1, 2018, to address the effects of the changes in tax laws, including financial information that is sufficient to establish a revenue requirement that reflects prospectively the impacts of those changes. The filing shall include a calculation of any deferred liability accrued by report date and any liability projected to be accrued until the time when final rates are next issued in accordance with a general rate case. It shall also include a plan for providing periodic reports on the accrual and extinguishment of the deferred liability, including an outline of the financial information the utility would expect to file that would be sufficient to establish a revenue requirement that reflects the impact of the tax law changes

Order No. 26,096 at 2. Furthermore, the Commission noted that “While changes in tax law are typically treated as exogenous events,” *id.* at 3, it was withholding that specific determination with respect to the open cases of two utilities.

On March 30, 2018, Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource or the “Company”) timely complied with the Commission’s directive in Order No. 26,096 and filed its proposal to address the effects of the changes in tax laws. Relative to the timing for addressing the effects of the tax changes, Eversource’s proposal provided:

The Company is proposing that a distribution rate adjustment to refund the monthly amount of \$1.023M that is currently being deferred as a result of the tax rate changes be addressed as part of the Company’s next distribution rate review. In that way, the tax changes may be analyzed in conjunction with other changes to the Company’s costs and revenues that

have occurred since the conclusion of its last rate review. The Company understands the priority its customers place on the stabilization of rates and believes that preserving the opportunity to pair a potential increase in rates due to cost increases since the Company's last rate review, with an offsetting refund due to the tax reductions, is consistent with this priority.

March 30, 2018 Technical Statement of Christopher J. Goulding in Docket No. DE 18-049 at 3-4. Further, Eversource stated:

In terms of timing, the Company intends to file an application for a distribution rate review in 2018 soon after the completion of the divestiture of its New Hampshire generating facilities. The Company's last distribution rate review was completed in 2010, and its next distribution rate review was generally contemplated as part of the "2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement" approved in Docket No. DE 14-238. The comprehensive set of terms to that agreement included a commitment by the Company to extend its stay-out period for a distribution rate review by two years to July 1, 2017 to coincide with the anticipated completion of the divestiture process.

Id. at 4.

Accordingly, Eversource had proposed at the outset that the changes in the tax laws be addressed through a comprehensive rate review that was to follow the completion of divestiture in line with the 2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement (the "2015 Agreement"), which was previously approved by the Commission in Order No. 25,920 (July 1, 2016).

On May 30, 2018 the Commission issued an order of notice setting a prehearing conference and technical session in this matter for June 18, 2018. At that prehearing conference, the Company noted that due to activities undertaken by entities other than Eversource at the Federal Energy Regulatory Commission ("FERC"), entities over which Eversource has no control, the completion of divestiture has been delayed. Accordingly, the filing of Eversource's next rate review has likewise been delayed. In recognition of the delay at FERC, during the prehearing conference Eversource informed the Commission that it had other proposals it wished to discuss with the Staff and the Office of Consumer Advocate ("OCA") for addressing the changes in the tax laws. Eversource expressed its interest to the Commission in reaching an agreed upon proposal for the Commission's review. Discussions with the Staff and OCA were held during and after the technical session following the prehearing conference.

During the discussions with the Staff and OCA, it was made clear to Eversource that the Staff and the OCA were open to only one proposal – near term return of the savings associated with the tax law changes by way of rate credits to customers. As Eversource understood, the position of the Staff and OCA was that there were two

possible options for Eversource: agree to provide rate credits to customers effective August 1, 2018; or file some other proposal(s) to litigate before the Commission. In that Eversource believes that absent agreement on other beneficial uses for the tax savings beyond rate changes, rate treatment of the tax changes is expressly governed by the 2015 Agreement, under the “Exogenous Events” provision, (Section III.G of the 2015 Agreement; *see also* Order No. 25,920 at 39) Eversource presents the below alternative proposals for the Commission’s consideration of agreeable methodologies to provide the benefit of the tax law changes to customers.

ALTERNATIVE 1:

Pending before the Commission in Docket No. DE 18-058 is a petition from Eversource to recover certain storm expenses incurred through the beginning of 2016, for storms that fall within the defined criteria for recovery. Though Eversource has yet to receive an order of notice in the docket, the Company does note that certain of the unaudited costs of the storms included in that filing are currently being audited. As noted in that docket, presuming those costs will be permitted for recovery they will be charged against the Major Storm Cost Reserve (“MSCR”). At the time they are charged against the MSCR, the outstanding balance in that reserve would become essentially zero. At the same time, since 2016 Eversource has incurred additional storm expenses including from very recent storms. Those expenses total approximately \$60 million at present (not including the most recent storm that occurred June 18-19), and are accruing interest consistent with the treatment of all storm costs that are deferred for recovery. The eventual recovery of these newer storm costs could result in a measure of rate shock to customers when some provision is ultimately made for recovery.

In recognition of both the accruing balance and the desire to mitigate rate shock to customers, Eversource proposes that the currently accruing tax savings of approximately \$1.023 million per month be allocated to paying for these newly incurred storm costs. That is, rather than adjust rates Eversource would credit the amount of tax savings of approximately \$1.023 million per month against the costs of the storm balance incurred since 2016 for those storms following the ones identified in Docket No. DE 18-058. This credit against the storm balance would continue until the time of Eversource’s next rate review filing when rates could be adjusted on a comprehensive basis. Applying the tax savings as an offset to the incurred costs would help decrease the amount of the overall accrual, as well as the interest applied to the accrued costs. In so doing, it would help to mitigate potential future rate shock. In Eversource’s assessment, using the tax savings in this manner is beneficial to both customers and the Company in the near and longer term. Customers would receive the near term financial benefit of the changes in tax law through a lower storm balance, and a lower amount of interest on that balance for deferral.

ALTERNATIVE 2:

Should the Commission not conclude that decreasing the storm deferral is appropriate for the treatment of the tax changes, but that a distribution rate adjustment is preferred in line with the position of the Staff and OCA (and which was raised by Commissioner Bailey during the June 18, 2018 prehearing conference), the approved terms of the 2015 Agreement would apply. As noted in Order No. 26,096 “changes in tax law are typically treated as exogenous events,” as would be the case if a distribution rate change is to be made here.

The 2015 Agreement was a comprehensive agreement among numerous parties, including the OCA and the Commission’s Staff, relating to numerous issues surrounding Eversource’s divestiture and was approved by the Commission in Order No. 25,920 (July 1, 2016). While some provisions have been accomplished, certain of the provisions of the 2015 Agreement were specifically stated as persisting until the filing of Eversource’s next rate review. Relative to the provision on exogenous events, that provision remains in force until the time of Eversource’s “next general distribution rate case,” which has not occurred, and which, as noted above has been delayed pending the completion of divestiture. As specifically provided in the 2015 Agreement:

G. Exogenous Events

During the term of this Agreement, PSNH will be allowed upon Commission approval to adjust distribution rates upward or downward as a result of Exogenous Events, as defined below. For any of the events defined as State Initiated Cost Change, Federally Initiated Cost Change, Regulatory Cost Reassignment, or Externally Imposed Accounting Rule Change PSNH will be allowed to adjust distribution rates upward or downward (to the extent that the revenue impact of such event is not otherwise captured through another rate mechanism that has been approved by the Commission) if the total distribution revenue impact (positive or negative) of all such events exceeds \$1,000,000 (Exogenous Events Rate Adjustment Threshold) in any calendar year beginning with 2015, until PSNH’s next general distribution rate case.

1. “State Initiated Cost Change” shall mean any externally imposed changes in state or local law or regulatory mandates or changes in other precedents governing income, revenue, sales, franchise, or property or any new or amended regional, state or locally imposed fees (but excluding the effects of routine annual changes in municipal, county and state property tax rates and revaluations), which impose new obligations, duties or undertakings, or remove existing obligations, duties or undertakings, and which individually decrease or increase PSNH’s distribution costs, revenue, or revenue requirement.

2. “Federally Initiated Cost Change” shall mean any externally imposed changes in the federal tax rates, laws, regulations, or precedents governing income, revenue, or sales taxes or any changes in federally imposed fees, which impose new obligations, duties or undertakings, or remove existing obligations, duties or undertakings, and which individually decrease or increase PSNH’s distribution costs, revenue, or revenue requirement.

...

No later than March 31 of each year until PSNH’s next distribution rate case filing, PSNH shall file with the Commission, Staff and OCA a Certification of Exogenous Events for the prior calendar year. If, in the prior calendar year, PSNH incurs any changes in distribution costs, revenue, or revenue requirement in excess of the Exogenous Events Rate Adjustment Threshold in connection with any Exogenous Event as defined in this section, PSNH shall provide specific and sufficient detail supporting each change and the Exogenous Event(s) associated with each change for the Commission, Staff and OCA to assess the proposed Exogenous Event rate adjustment. If no Exogenous Events causing changes in excess of the Exogenous Events Rate Adjustment Threshold occurred during the prior calendar year, PSNH shall certify that fact in its annual Certification of Exogenous Events. On or before May 1 of each year until PSNH’s next distribution rate case filing, the Staff and the OCA may make a filing requesting an Exogenous Event rate decrease or contesting an Exogenous Event rate increase proposed by PSNH. Any adjustments to revenue requirements for Exogenous Events:

1. shall be subject to review and approval as deemed necessary by the Commission;
2. shall be implemented for usage on and after July 1 of that year; and
3. shall be allocated among PSNH’s rate classes on a proportional basis based on total distribution revenue by class in effect at the time of the adjustment. Any such filings are limited to one per calendar year, provided that any costs incurred or saved due to such Exogenous Events shall be deferred for consolidation in the single filing.

Any Exogenous Event adjustment made during the term of this Agreement will remain in rates only through the effective date of new rates set as a result of PSNH’s next general distribution rate proceeding.

2015 Agreement at lines 366-420.

This provision is clear on how adjustments to Eversource’s rates are to be handled when exogenous events meet the relevant threshold. In this case, the tax changes that

took effect in 2018 clearly meet the relevant threshold of \$1 million annually, and, therefore, if the savings are to be handled only as a rate adjustment, such adjustment should follow the requirements of a settlement that was signed by more than a dozen parties and that has been approved by the Commission, and which remains in effect today. Further, the changes in tax law have not been “otherwise captured through another rate mechanism that has been approved by the Commission” and thus to the extent rates are to be changed, it is to be as a general adjustment to Eversource’s distribution rates.

Consistent with the 2015 Agreement, if distribution rate changes are the preferred method of addressing all exogenous events that occurred in 2018, including the tax changes in issue here, Eversource will file a certification by March 31, 2019 covering the changes that occurred in calendar year 2018.¹ In that 2018 is not complete, the full impact of all exogenous changes for 2018 is not yet known and it is possible that some additional changes, either up or down, may affect the total amount to be included in the submission. Once the final amounts are known and the certification filing is made, that filing will be reviewed as necessary, and any changes will be implemented on July 1, 2019 as called for in the 2015 Agreement. This is a straightforward, appropriate, and approved manner of addressing a distribution rate change like this, and it conforms to an existing order approving an existing settlement agreement. Moreover, Eversource notes that customers would not be harmed by addressing the distribution change in line with the 2015 Agreement as the amount being deferred is collecting interest which would be delivered to customers at the time the rates are ultimately adjusted.

To the extent there may be some contention that a change to distribution rates should be made to account for the tax changes, but that such change should occur in a time or manner different from that required by the 2015 Agreement, Eversource would object to such contention. The 2015 Agreement provides limited exceptions to the treatment of exogenous events – such as when they are covered by a mechanism the Commission has already approved – but those exceptions do not apply in this instance. Moreover, if this change is to be treated only as a rate adjustment, then there is nothing “special” or “unique” about this change that would justify ignoring a clear term in a comprehensive settlement agreement which remains operative and in effect. Eversource has abided by its obligations under the 2015 Agreement and anticipates that other parties shall do the same.

CONCLUSION:

As noted above, Eversource had made a timely proposal consistent with the Commission’s directives, but given a change in circumstances over which Eversource had no control, that proposal must change. In light of Eversource’s understanding of the positions of the Staff and the OCA, Eversource proposes that the savings associated with the changes in tax law:

¹ In fact, Eversource’s April 23, 2018 certification in Docket No. DE 14-238 referencing events in 2017 noted the changes in tax law and that the outcome of this docket would affect future submissions by Eversource relative to exogenous events.

1. Be applied to pay down the storm balance that has accrued since the events identified in Docket No. DE 18-058, to mitigate the growth of that balance, and the resulting interest, to the benefit of customers; or

2. Be addressed in line with the exogenous events provisions of the 2015 Agreement.

Eversource presents these two proposals as ones that are reasonable, appropriate, fair, and consistent with the law and Commission precedent. Accordingly, Eversource contends that the Commission should approve one of the above proposals for addressing the tax law changes in issue.

Finally, and for clarity, the above proposals relate only to the tax gross up in the current year and do not cover the excess deferred income tax (“EDIT”) liability identified in Section III of Mr. Goulding’s March 30, 2018 technical statement. Given the extended period of time over which that liability is to be addressed – as shown on Bates page 86 of Eversource’s March 30, 2018 submission – it is the Company’s position that the EDIT should remain as an item to be included as part of a comprehensive rate review. Based upon discussions with the Staff and OCA, Eversource understands that they believe the EDIT is best addressed in such a review as well.