

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DE 18-142

Enel X North America, Inc.

Petition for Approval of Use of Live, Online Reverse Auction in Electric Procurement

OBJECTION TO MOTION TO AMEND SCOPE OF DOCKET

Enel X North America, Inc. (“Enel X”), by and through its counsel, N.H. Brown Law, PLLC, objects to Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource”) motion to amend the scope and extent of participants in the instant proceeding. Enel X requests the Commission affirm the terms of the settlement agreement reached in Docket No. DE 17-113 and deny Eversource’s motion. In support of its objection, Enel X states as follows:

1. This docket was opened as a result of a settlement agreement reached among Staff and the parties in Docket No. DE 17-113 and approved by Commission Order No. 26,092. As part of that settlement, Staff, the OCA, Enel X, and Eversource agreed that any party may “file a petition to have the Commission review whether Eversource should change its energy service procurement process to take advantage of new technology or new products which may benefit customers.”¹ Order No. 26,092 at 16. There was no mention of Liberty or Unitil in that agreement, it concerned solely Eversource. Furthermore, Eversource agreed to “evaluate

¹ The exact settlement provision is as follows: “[t]he Settling Parties agree that any party may, in the future, petition the Commission to amend the manner of ES procurement and supply should circumstances warrant a change and Staff, the OCA and Eversource agree to participate in such a docket. Eversource agrees to continue to evaluate procurement methods other than sealed bid RFP. The Settling Parties agree that any new proposed method, if approved by the Commission, shall be implemented as ordered by the Commission.” Hearing Exhibit 2 at 5 and 6.

procurement methods other than sealed bid RFP”. That settlement term, therefore, set the nature and scope of the instant docket. See, Docket No. DE 17-113, Hearing Exh. 2 at 5 and 6.

2. Nine months ago, Enel X filed its petition in this docket consistent with that settlement term. The Commission required Enel X to notice this proceeding, which Enel X did. The Commission held a prehearing conference to, among other things, receive and consider petitions to intervene. There were no petitions to intervene, not even from suppliers accustomed to appearing before the Commission. After the prehearing, the Staff and parties met in a technical session. No proposed procedural schedule was developed at that time because Staff expressed its desire to wait for the release of a report concerning New Jersey’s auction process. In the meantime, the OCA conducted discovery to which Enel X responded. The responses are attached as Attachment A.² The Staff and parties recently met in a conference call and developed a proposed procedural schedule to govern discovery and the filing of testimony. That schedule was filed with the Commission on May 31, 2019 and awaits Commission approval.

3. Now, Eversource is requesting to change the scope of the docket and extent of participants. Eversource’s request is inconsistent with the settlement agreement. In addition, because Eversource is asking the Commission to change the terms of the settlement agreement approved in Order No. 26,092, Enel X believes this constitutes a modification of an order that itself requires notice and hearing, pursuant to RSA 365:28.

4. Enel X respectfully objects to Eversource’s request. Enel X believes Eversource is taking a position that is contrary to the terms of the settlement agreement because the relief

² The reports that were attached to the data responses and cited in Enel X’s testimony have not been provided due to their size and because the instant motion and objection concern procedural issues rather than merit issues. The data responses are intended to illustrate the effort expended in this docket to date.

Eversource seeks was already the subject of a prior docket. See, Docket No. IR 14-338³ - *Review of Default Service Procurement Processes for Electric Distribution Utilities*, where the Commission investigated procurement methodologies used by New Hampshire's electric companies. As Enel X noted in its pre-filed testimony, there was a general consensus in Docket No. IR 14-338 against imposing a uniform methodology for procurements and that changes in procurement methods ought to be done in utility-specific dockets. See, Docket No. IR 14-338, Hearing Transcript of May 27, 2015, at 16. Direction from that docket and Docket No. DE 17-113, formed the impetus of Enel X's filing in the instant docket. In addition, with respect to Eversource's suggestion to include supplier stakeholders, Docket No. IR 14-338 involved supplier stakeholders, yet notwithstanding that the instant docket has been noticed, none of those stakeholders have sought to intervene. It is important to note that the Commission cannot force these non-regulated stakeholders to participate in proceedings before the Commission. Such stakeholders may also file for late intervention if they wish. See N.H. RSA 541-A:32 and N.H. Code Admin. Rule Puc 203.17.

5. Eversource is implicating positions of Staff, yet Staff has not joined in Eversource's motion. To this point, the fact that Staff and the parties filed a proposed procedural schedule to commence reviewing Enel X's filing belies that Staff agrees to change the scope and participants to this docket. Additionally, the timing of the Commission's review of Eversource's procurement methods is appropriate. In Docket No. DE 18-002, in a memorandum filed with the Commission on September 10, 2018, Staff recommended that the Commission "wait until

³ The Order of Notice in DE 14-338 was directed to PSNH, Unitil, and Liberty. The Commission directed Staff to conduct stakeholder discussions with electric distribution utilities, competitive energy suppliers, market participants and customer representatives on different approaches to default service solicitations and to review relative advantages and disadvantages of the current methods of procuring default energy service. See Order of Notice dated November 24, 2014.

Eversource had conducted at least two more cycles of energy procurement through the RFP process before considering any changes to the process.” It is now June 2019. Three procurement events have occurred in 2018 and been approved by the NH PUC, and a fourth procurement event is underway.⁴

6. Enel X also wishes to address what it believes are factual inaccuracies in Eversource’s motion. With respect to Eversource’s assumption that the Commission would have to approve recovery of costs of the fees associated with delivery of a successful procurement outcome by an auction manager like Enel X, the fees associated with the auction are not paid by the utility (in this matter, Eversource). Rather, the fees are paid by the winning supplier. This payment arrangement, where the auction manager is paid by the winning supplier, is a very common industry fee structure and incents the auction manager to ensure a successful outcome. The Commission would approve the auction outcome similar to Eversource’s current regulatory procedure. There is no need for Eversource to seek separate cost recovery of the fee the supplier pays.

7. To justify expanding the scope of the docket, Eversource also asserts that “Eversource has restrictions on using sole source services that would need to be satisfied to justify any proprietary, sole source service from Enel X. Thus, the direct interests of other service providers are at stake as well.” Enel X did not petition the Commission to request a sole source service. See, Enel X’s Petition at page 6 (“WHEREFORE, EnerNOC respectfully requests that the Commission: A. Approve and direct Eversource to utilize live, online reverse auctions to

⁴ See, Docket No. DE 18-002, Order No. 26,104 (February 22, 2018) (approving power supply contracts, procured by Eversource, to serve PSNH load from April 1, 2018 through July 31, 2018); Docket No. DE 180-002, Order No. 26,147 (June 15, 2018) (approving power supply contracts, procured by Eversource, to serve PSNH load from August 1, 2018 through January 31, 2019); Docket No. DE 18-002, Order No. 26,203 (December 20, 2018) (approving power supply contracts, procured by Eversource, to serve PSNH load from February 1, 2019 through July 31, 2019). See also, Docket No. DE 19-082 (regarding Eversource procurement for PSNH load from August 1, 2019 through January 31, 2020, and Eversource’s request for Commission approval no later than June 13, 2019.)

procure full requirements energy service for a minimum three procurements (Spring 2019, Fall 2019, and Spring 2020).” Knowing that Eversource is hesitant to change from its current method of procurement absent Commission approval, Enel X has taken the initiative to bring this issue to the Commission. Enel X would expect that if the Commission grants the relief it is seeking, that Eversource would conduct a competitive process to select a provider of live, online reverse auctions. There are several providers.

8. Contrary to Eversource’s assertion that “Enel X has sought to experiment” with Eversource’s procurement process, Enel X is bringing years of experience in managing thousands of energy commodity procurements, including multiple years of default service or standard offer product procurements with repeat customers. Enel X also has conducted thousands of sealed bid events. Based on Enel X’s cumulative experience of serving the needs of utilities like Eversource, and by extension their electricity consumers, Enel X believes that the live, online reverse auction process will better achieve the State’s policy objective of reducing “costs to consumers while maintaining safe and reliable electric service.” RSA 374-F:1. Regulators have repeatedly approved the results of live, online reverse auctions, and as noted in Enel X’s testimony at page 27, independent third parties have repeatedly noted the competitive nature of the auctions.

9. The remainder of technical questions that Eversource raises are precisely the issues that can and would be addressed in discovery in the instant docket. Additionally, the demonstration of savings for which Eversource wants assurance can never be absolutely guaranteed, however, in Enel X’s experience and with the track record of savings from live, online reverse auctions, as illustrated in the attached discovery responses, live, online reverse auctions have been producing savings for utilities around the country. Live, online reverse

auctions are also not unfamiliar in the region.⁵ As stated on page 7 of Enel X's testimony, the Regional Greenhouse Gas Initiative ("RGGI") has conducted its quarterly, regional CO2 allowance auctions using Enel X's technology-enabled services.⁶ While this auction method may be new to Eversource, it is not untried, nor are suppliers unfamiliar with the process. Enel X believes New Hampshire is ripe to try live, online reverse auctions.

10. For the foregoing reasons, Enel X respectfully requests the Commission deny Eversource's motion. This docket and its scope have been noticed. Stakeholders have been afforded an opportunity to participate. Staff and the parties have agreed to a procedural schedule to finally conduct a review of Enel X's petition and testimony. To change the course and scope of this utility-specific proceeding at this time would be patently unfair to Enel X, who has been patiently trying to participate in the Commission's regulatory process. Enel X is an unregulated entity, yet it has made itself available for examination. It has done so in response to Eversource explaining to Enel X that it would not change its procurement process without Commission approval. Enel X seeks that Commission approval. Therefore, Enel X requests the Commission allow Staff and the parties to proceed with the procedural schedule as proposed.

⁵ As described on page 28 of Enel X's testimony, the General Services Administration now uses live online reverse auctions to procure its energy.

⁶ Since RGGI's inception, these (40) auctions have generated almost \$187,000,000 in benefit to New Hampshire.

WHEREFORE, Enel X North America, Inc. respectfully requests the Commission:

- A. Deny Eversource's motion to amend the scope of this proceeding; and
- B. Grant such other and further relief as may be consistent with the public interest.

Respectfully submitted,

ENEL X NORTH AMERICA, INC.

By Its Attorney

Date: June 10, 2019



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CERTIFICATE OF SERVICE

I hereby certify that a copy of this objection has been forwarded by electronic means to the Docket-Related Service List posted on the Commission's web site for Docket No. DW 18-142.

Date: June 10, 2019



Marcia A. Brown, Esq.