

THE STATE OF NEW HAMPSHIRE
BEFORE THE PUBLIC UTILITIES COMMISSION

Docket No. DE 19-057

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE d/b/a EVERSOURCE ENERGY
Petition for Permanent Increase to Distribution Rates

**AARP MOTION TO ESTABLISH PROCESS
FOR CONSIDERATION OF POTENTIAL SETTLEMENT**

September 25, 2020

Pursuant to Rule Puc 203, AARP respectfully submits this Motion requesting (1) that the Commission establish a process for the fair consideration of a Settlement Agreement anticipated to be filed with the Commission and (2) that the Commission include provisions for the presentation of expert testimony by the proponents/supporters of the Settlement Agreement to address their burden to demonstrate that the result is just and reasonable and subsequently by expert testimony of the opponents, to be followed by a public hearing on the Settlement Agreement, which could include cross examination of the witnesses presenting testimony and allow for comments by members of the public, and also for the presentation of briefs.

In support of this Motion, AARP states as follows:

On September 22, the Commission Staff filed a letter with the Commission stating that “the parties have reached a settlement in principle to resolve all issues” and seeking to cancel certain hearing dates. Later in the day, the Executive Director issued a letter cancelling said hearing dates so as to “allow the parties time to finalize the settlement that has been reached in principle.” AARP, an intervenor in this proceeding, is concerned

that the Staff's letter may have created the misimpression that the putative settlement is unanimous and that AARP is a party. While AARP is continuing to engage in good faith settlement discussions and believes that they have produced some beneficial results, as of this time AARP has not reached agreement with the other parties and has so informed the negotiating parties. AARP is hesitant to elaborate on the status of negotiations or any issues that remain subject to negotiation. But the filing of Staff's letter compels AARP to make clear that the Staff's statement that "the parties" are in agreement does not mean that "all parties" are yet in agreement. It is a distinct possibility that AARP would not be a party to a settlement.

Accordingly, given that it appears that a Settlement Agreement is likely to be filed, and there is a reasonable prospect that such a settlement would be non-unanimous, AARP requests that the Commission promptly establish a schedule which would be appropriate to the consideration of a potentially contested Settlement Agreement being presented to the Commission, and which provides a fair opportunity for any and all opponents to be heard.

There is no question that dramatic changes have occurred in the world, and in the service territory of the Eversource, since the commencement of this ongoing rate case. The dramatic societal and economic changes, brought about by an unprecedented pandemic, have been so severe that AARP believes that the best course of action in this rate case would be to proceed very cautiously with respect to any rate increase. Faced with this unprecedented public health and economic crisis, AARP has stated previously and continues to believe that that the Commission cannot treat this case as "business as usual."

The basic issue that must be addressed and decided when the Commission is presented with the Settlement Agreement is whether the Settlement Agreement produces a result which is just and reasonable. *Northern Utilities, Inc., 2015 Summer Period Cost of Gas Adjustment*, DG 15-090, Order Approving Settlement Agreement, Order No. 25,816 (Sept. 22, 2015):

Even when the parties join a settlement, however, we must independently determine that the result comports with ‘applicable standards.’ *EnergyNorth Natural Gas, Inc. d/b/a National Grid NH*, Order No. 24,972 at 48 (May 29, 2009) (‘we must scrutinize settlement agreements thoroughly regardless of whether a party appears at hearing to raise objections’). We conduct this analysis to ensure through a transparent process that a just and reasonable result has been reached. *Id.*; see N.H. Code Admin. Rules Puc 203.20(b) (‘The commission shall approve a disposition of any contested case by stipulation [or] settlement ... if it determines that the result is just and reasonable and serves the public interest’). The ‘applicable standard’ governing the proposed settlement in this COG case is whether the resulting rates are ‘just and reasonable.’ RSA 378:7; *Liberty Utilities (Granite State Electric Corp.)*, Order No. 25,638 (Mar. 17, 2014). Therefore, we must review the Agreement according to the just-and-reasonable standard to ‘provide the public with the assurance that a just and reasonable result has been reached.’ *EnergyNorth Natural Gas*, Order No. 24,972 at 48.

The just and reasonable standard is a legal standard which applies in this rate case, and the satisfaction of that standard requires careful analysis of facts and law and policy. The presentation and analysis of the facts and judgments to be made regarding the justness and reasonableness of the result will require expert witnesses.

AARP would submit that the Commission cannot focus on Eversource’s historic costs, or on cost projections prepared before the pandemic, in the traditional manner, and assume that the resulting rates will be “just and reasonable.” The Commission must focus on what rates are reasonable for consumers to pay under these extraordinary conditions. To put this in terms of utility ratemaking: the focus should be on whether it is just and

reasonable for Eversource to increase its rates at this time. AARP submits that a deliberate and formal analysis is necessary to answer this question.

The Staff's letter indicates that the Settlement Agreement is expected to be finalized and filed by September 28. AARP requests that when the Settlement Agreement is filed, that the proponents and any supporters of the Settlement Agreement be required to accompany the Settlement Agreement with their prefiled testimony in support of the Settlement Agreement. The parties opposing the Settlement Agreement should then be allowed 10 days to submit their written testimony. A hearing could be held within a few days, using one of the hearing dates remaining in this docket (October 12, 14, 26, 27, 29 and 30). Assuming the Settlement Agreement is filed on September 28, AARP submits that a reasonable schedule might be as follows:

Settlement Agreement Filed	September 28
Supporting Testimony Filed	September 28
Opponent's Testimony Filed	October 8
Hearing on Settlement Agreement	October 14
Briefs	October 21
Reply Briefs	October 28

Even if a settlement agreement is filed and is contested, AARP does not anticipate that more than 2 days of hearing would be necessary.

WHEREFORE, for the reasons stated herein, AARP respectfully requests that the Commission grant AARP's Motion, and Order as follows:

a) that the proponents/supports of the Settlement Agreement submit their expert testimony in support of the Settlement Agreement when the Settlement Agreement is filed;

b) that opponents of the Settlement Agreement be allowed 10 days thereafter to submit their expert testimony;

c) that a hearing be subsequently held within one week on the Settlement Agreement, including the opportunity for public comment,

d) that reasonably in advance of the hearing, the Commission allow the parties to designate witnesses of other parties who have submitted written testimony at any point in this proceeding, to be present at the hearing for cross examination;

e) that an opportunity to file briefs and reply briefs be provided, and

f) that the Commission establish any other appropriate process as determined by the Commission.

Respectfully submitted,

/s/ John B. Coffman

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Dated: September 25, 2020



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Dated: September 25, 2020

CERTIFICATE OF SERVICE

The undersigned hereby certifies that copies of the foregoing have been served via electronic filing with the New Hampshire Public Utilities Commission to official service list in Docket No. DE 19-057, on this 25th day of September, 2020.



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