

STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

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

Notice of Intent to File Rate Schedules

Docket No. DE 19-057

**MOTION TO REJECT THE DEPARTMENT OF ENERGY STAFF'S AUDIT
COMMUNICATION AND OBJECTION TO THE COMMUNICATION**

Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource” or “PSNH” or “the Company”) hereby respectfully moves for the New Hampshire Public Utilities Commission (“Commission”) to reject the August 26, 2021 “Inter-Agency Communication” of the Department of Energy Staff (“Staff”) in the instant docket, or, if it is not rejected, Eversource objects to the substance of the communication. The Staff’s Inter-Agency Communication requests that the Commission disallow recovery of prudent and reasonable rate case expenses necessarily incurred by Eversource to prepare, support and resolve the 2019 rate case filing, and asks for this finding without adequate process or support. In support of this motion and objection, Eversource states as follows:

I. BACKGROUND AND PROCEDURAL HISTORY

1. On March 22, 2019, Eversource filed with the Commission its Notice of Intent to File Rate Schedules pursuant to N.H. Code Admin. Rule Puc 1604.05 pertaining to a request for temporary rates and, on April 26, 2019, Eversource submitted the temporary rate filing. On May 8, 2019, the Commission issued Order No. 26,250, suspending Eversource’s proposed tariff for temporary rates pending further investigation. On May 28, 2019, the Company submitted its permanent rate filing seeking an increase in rates effective July 1, 2019. Over the ensuing year

and a half, Eversource and several parties engaged in discovery, technical sessions, and other discussions culminating in a Settlement Agreement on permanent rates that was filed with the Commission on October 9, 2020 (the “Settlement Agreement”) and addressed in hearings at the end of October 2020.¹ On December 15, 2020, the Commission issued Order No. 26,433 approving the Settlement Agreement.

2. On January 15, 2021, consistent with N.H. Code Admin. Rules Puc 1905.02 and 1905.03, Eversource filed its request for recovery of prudently incurred rate case expenses.² The requested recovery included the expenses incurred on Eversource’s own behalf, as well as those incurred by the Staff and the Office of Consumer Advocate (“OCA”). In total, Eversource sought recovery of \$2,186,264 in expenses covering the preparation for the case as well as its execution over an eighteen-month period, for multiple parties.

3. Following Eversource’s submission, the Commission’s audit staff (now the staff of the Department of Energy, or “DOE”), commenced an audit of the expenses. Consistent with other audits, this review resulted in the audit staff identifying certain areas of concern in a draft audit, allowing the Company a single opportunity to respond to those concerns, and then issuing a final audit report with its recommendations. The final audit report was issued on March 30, 2021 (the “Audit Report”) and noted Eversource’s continuing disagreement with a number of the proposals and conclusions. The Audit Report recommended disallowance of \$901,659 in requested costs for

¹ The suspension period for the case was extended by virtue of Executive Order #29, April 24, 2020, issued pursuant to Executive Order 2020-04, providing authority to the Commission to suspend rate schedules up to 18 months.

² In anticipation of recovery of certain expenses, the agreed upon Settlement Agreement, as initially filed, included rate case expense recovery in the settled revenue requirement. On November 30, 2020, Eversource filed a letter and supporting information describing and substantiating the expenses included in the settled revenue requirement and acknowledging that the final amount of rate case expense recovery was yet to be determined. In Order No. 26,433, the Commission ordered that the rate-case expense amount be excluded from the settled revenue requirement and submitted separately. Eversource complied with the Commission’s order and made its separate filing on January 15, 2021.

a total recovery proposed of \$1,284,606 in rate case expenses. Thereafter, no action was taken on the Audit Report for approximately five months.

4. Then, on August 26, 2021, the Staff filed an “Inter-Agency Communication” where it supported the Audit Report’s proposed disallowances. That communication (to which the Audit Report was attached) recited the Audit Report’s findings accompanied by a brief statement of the Staff’s agreement. Following the recounting of the Audit Report, the entirety of the Staff’s recommendation is:

Staff has reviewed the final audit report provided by the Audit Division involving PSNH’s request for recovery of rate case expenses. It is Staff’s opinion that the audit is complete and accurate and that the disallowance recommendations contained therein are well supported and justified. Staff also reviewed the Company’s responses, but when weighed against the observations contained in Audit’s review, Staff did not find the responses persuasive. Therefore, Staff recommends that the Commission adopt the findings contained in the Report and approve the recommended disallowances totaling \$901,659, requiring PSNH to reduce the total amount of recoverable rate case expenses from \$2,186,264 to \$1,284,606.

August 26, 2021 Staff Communication at 4.³

5. For the reasons that follow, Eversource challenges both the substance of the Staff’s communication and the process for its presentation. Eversource requests that the Commission either reject the communication or, if it is accepted, that the Commission reject the disallowances proposed within it.

II. ARGUMENT

6. With respect to process, as of July 1, 2021, the Staff are no longer members of the Commission, but are employees of a separate state agency, the DOE. Pursuant to RSA 12-P:2, IV and 12-P:9, the DOE is a party to proceedings at the Commission, including the instant proceeding.

³ As the Staff’s communication is not consecutively paginated, *see* 203.04, references to the page numbers will refer to the page numbering on the Staff’s Communication and the attached Audit Report separately.

Accordingly, as the Staff of this separate agency is a party to a proceeding before the Commission it has the same rights and responsibilities as other parties in other Commission proceedings. Given that status, it is unclear on what basis this “Inter-Agency Communication” has any effect in this proceeding. The filing is not presented as a motion or petition, and only recommends that the Commission “approve” the recommendation of the DOE’s Staff.

7. Therefore, at best, the Staff’s communication should be treated for what it is – essentially a public comment indicating the opinion of the Staff. On its own, this communication does not provide a basis for any particular action by the Commission. To the extent that the Staff intends to request the Commission to take any particular action, then it should do so consistent with the Commission’s rules and submit a motion or petition with testimony or a technical statement or other information supporting the requested ruling. *See* Puc 203.05. As it stands, this communication is merely a recitation of the work of the DOE’s audit staff along with the above brief statement of the Staff’s agreement. The statement contains no indication of the relevant standards for recovery, nor any analysis of how those standards apply in this case. Accordingly, as this communication presents no basis for any Commission action, Eversource requests that the Commission reject the Staff’s communication.

8. To the extent the Commission does not reject the filing, Eversource objects to the contents of the communication and its recommendation. As noted above, the Staff seeks to have the Commission disallow nearly \$1 million in legitimate and proper rate-case expense with no analysis, a singular conclusion that the information presented was not “persuasive,” and based upon inaccurate information and internally inconsistent positions. The Commission should not support such a recommendation.

9. As an initial matter, in reviewing the expenses submitted, the Staff does not recommend any disallowances for any of the costs of the Staff or OCA. Eversource takes no exception to that position. As for the costs pertaining to consultants and service providers retained by Eversource, the Staff recommends disallowances of a portion of the costs for four of those consultants: Keegan Werlin, LLP (legal services); Economists, Inc. (cost of service studies); Concentric Energy Advisors (cost of capital and return on equity); and Randstad Corporate Services (temporary corporate support services). With respect to the costs of Concentric, as noted in the Audit Report, Eversource has agreed to the removal of the \$38,432 in challenged costs. Therefore, Eversource takes no exception to the removal of the identified Concentric costs in this submission. For the other costs, however, each of the proposed disallowances pertain to legitimate and appropriate rate case expenses and disallowances are improper.

10. With respect to Keegan Werlin's legal expenses, the Staff has sought to disallow the entirety of Eversource's outside legal costs. This proposal is without support or justification, is internally inconsistent, and should be rejected. First, the Commission's rules, Puc 1906.01, specifically provide that "legal and accounting fees" are allowable rate case expenses. Thus, the Commission's rules acknowledge that utilities may retain additional legal services specifically for work pertaining to rate case filings beyond whatever a utility's usual capacity for legal work might be. Accordingly, there can be no claim that it was inherently error for Eversource to retain outside legal expertise for a "surge" item like a rate case that represents a low frequency, high impact event. By seeking to disallow 100 percent of these costs, the practical effect would be contradictory to the Commission's rules, particularly without any demonstration as to how the costs fail to meet the standards established by the Commission.

11. In addition, the Audit Report seeks to disallow all legal costs pursuant to Puc 1907.01(a), which excludes costs “for matters handled by service providers that are typically performed by utility management and staff of the utility, based on their experience, expertise, and availability.” According to the Audit Report:

All of the time spent preparing, reviewing, editing data request responses and updating logs, daily phone calls with what was called the “core” rate case team, discussions among counsel and Eversource employees regarding testimony, technical sessions, hearings, preparing and filing documents for submission to the NH PUC, should have been accomplished by the legal staff of the Company.

Audit Report at 5.

12. This statement is not accurate, nor supported by any analysis substantiating the conclusion. In essence, the Audit Report asserts that because Eversource employs attorneys, it should not be allowed to recover outside legal expenses for a rate case. As stated in the Company’s initial response to the Audit Report’s conclusion, and as restated here, this position is in error for numerous reasons.

13. As Eversource described in its response to the audit staff, the audit staff’s reasoning ignores the substantial incremental work and activity associated with preparation, conduct and resolution of the numerous issues associated with the first rate case in 10 years, and the first case since the 2012 merger of Northeast Utilities and NSTAR. The audit staff presumes that any lawyer employed somewhere within Eversource Energy may be brought in to support a rate case filing, and that repurposing other Eversource Energy attorneys (taking them away from the work needed in other areas of the organization) would occur at no incremental cost to Eversource, which is not the case (Audit Report at 12). As noted above, the Commission’s rules exclude recovery for the costs of activities of the “staff of the utility, based on their experience, expertise, *and availability.*” Puc 1907.01 (emphasis added). Eversource does not have an inexhaustible supply of available

attorneys so that it may repurpose attorneys to infrequent items associated with a high-volume, long-term (12-18 month) proceeding. Nor is it reasonable or fair to limit the Company to the use of internal legal counsel even though that counsel would have no expertise in utility ratemaking or New Hampshire ratemaking precedent.

14. In New Hampshire, Eversource has sought to maintain an appropriate level of legal professionals to address the regulatory work presented to the Company as part of its regular and recurring regulatory business. Eversource does not, however, maintain a steady supply of other attorneys who may be substituted in for specific, high-impact cases, requiring specific technical expertise, such as a rate case. Further, keeping incremental legal resources available on a full-time basis for “surge” items such as rate cases would be inefficient, wasteful, and likely imprudent.⁴ The Company works to assure that its internal legal costs are contained and reasonable, and maintaining legal resources at the level the audit report would seem to support is counter to that goal, and would likely be counter to the interests of New Hampshire utility customers.

15. Not only does the audit report appear to ignore the practical issue of appropriate staffing and the availability of legal support, the audit report also presumes that any attorney within Eversource’s broader corporate structure would be able to act as competent counsel in a New Hampshire rate-case filing. That is not accurate. Although Eversource Energy maintains an internal legal staff, including lawyers and paralegals, these resources practice across myriad disciplines involving both the regulated and unregulated businesses within Eversource Energy,

⁴ See *Public Service Company of New Hampshire*, Order No. 20,503, 77 NH PUC 268, 270 (1992) (“The prudence standard is one of the specific standards that has been developed by the Court to govern the inclusion or exclusion of costs for ratemaking purposes. ... While the scope of the prudence principle is by no means clear, it at least requires the exclusion from rate base of costs that should have been foreseen as wasteful.”) (quotations and citations omitted). See also, *Public Service Company of New Hampshire*, Order No. 25,565 (August 27, 2013) at 20 (“When reviewing whether a utility has been prudent in its decision making, [the Commission] ‘may reject management decisions when inefficiency, improvidence, economic waste, abuse of discretion or action inimical to the public interest are shown.’”) (quoting Appeal of Easton, 125 N.H. 205, 215 (1984)).

including: corporate governance, bankruptcy, labor and employment, and other matters not related to state regulatory issues. Attempting to redirect those attorneys from their areas of competence and responsibility to a New Hampshire base-rate case is not an available option because it risks having those attorneys acting outside their areas of competence in potential violation of their professional ethics requirements. At the same time, it essentially creates a requirement that Eversource use attorneys who are not familiar with Eversource's regulated business or ratemaking requirements, New Hampshire public utility law, New Hampshire regulatory process for ratemaking proceedings, or other issues specific to New Hampshire's regulatory requirements.

16. Furthermore, the Audit Report's recommendation for a total disallowance ignores the fact that, even using internal resources, the Company would have incurred incremental costs that would be properly charged to the rate case. Even if no outside legal services were retained, there was still more work associated with the rate case than could be accomplished by Eversource's existing regulatory attorneys in New Hampshire. Accordingly, additional legal support was needed in any event. To reassign attorneys from other parts of Eversource Energy (presuming that was a viable option) would mean redirecting those attorneys from other work. This would have had two ramifications.

17. First, those attorneys would have been required to charge their time and expenses to Eversource rather than to another entity within the Eversource Energy system and this would have created an incremental cost to Eversource. Second, Eversource Energy may have had to incur costs for external legal assistance to cover the work that would normally be covered by the transferred attorney. As noted in Eversource's response to the draft audit report, Eversource estimates that there would have been an incremental cost of at least \$552,634 in legal expenses related to the use of the internal attorneys in New Hampshire alone, if outside legal assistance for

the New Hampshire base-rate case was not retained to supplement the work of the existing regulatory attorneys. Audit Report at 14. Incremental legal costs of this rate case exist and are legitimate costs for recovery regardless of how they were incurred.

18. Also, in the draft report the audit staff noted that in other rate case proceedings certain utilities did not seek to recover the costs of outside legal fees. The Audit Report claims that the references to prior cases were merely for “informational purposes.” Audit Report at 17. It does not, however, appear that this reference was merely for information, but instead was one of the bases upon which the disallowance was recommended. To the extent it was such a basis, it is unfounded.

19. There is no rule, law, or order of which Eversource is aware that states that a past decision by a utility on seeking recovery of rate case expenses has any bearing on a present request. Further, and more importantly, the idea that not seeking such costs in the past means that they should not be permitted in this case ignores the complexity of this case and the need for incremental assistance. While the audit staff “agrees that there was substantial work required by employees and consultants of Eversource,” it contends that “the Company determines the frequency of rate cases, therefore the significant amount of time since the previous rate case is the result of decisions made by the Company.” Audit Report at 16. Also, the Audit Report contends that “[t]he selection of 2018 as a test year, with the sale of the Generation side of the business also complicated what could have been a more streamlined rate proceeding, had that year not been chosen.” *Id.*

20. Thus, in addition to incorrectly assuming that any Eversource Energy lawyer would be adequate to staff this matter, the Audit Report’s recommendation to disallow costs appears to be based upon the contention that recovery of rate case expense is obviated or precluded in circumstances where the case complexity is associated with circumstances that the utility could

have controlled, or could have handled differently if it wanted to obtain recovery of rate-case expense.⁵ Customers benefitted from a long period without a change in base rates. Customers benefitted from the sale of generation, subject to the closely managed process developed by the Commission. The timing of these circumstances should not have any bearing on the recoverability of legal costs because it is illogical to contend that the timing of these two events should have been planned on the basis of the recoverability of legal costs, rather than on the basis of factors benefitting customers.

21. Further, and as to the timing issue, in Eversource's prior rate case, Docket No. DE 09-035, the settlement contained a five-year term during which Eversource was not to file a new case. Similarly, in the instant docket, the settlement agreement approved by the Commission in Order No. 26,433 contains, in Section 10.6, a prohibition on filing any rate case prior to the first quarter of 2023 based upon a test year of 2022. Accordingly, there were limitations on the timing of Eversource's prior rate case filing and on the next rate case filing. Similarly, in Docket No. DG 19-161, another utility withdrew a rate case filing following challenges to its submission being made within two years of its prior rate case, among other issues. On the other end of the spectrum, in Order No. 24,777 (July 12, 2007), another utility was required to file a rate case within six months of the closing of a merger rather than waiting until some other time. While there are numerous other examples of restrictions and requirements around the timing of rate cases, these examples demonstrate that it is unreasonable to contend that utilities control the timing of rate case filings without consideration of any external factors.

⁵ The Audit Report also appears to imply that Eversource intentionally timed its filing to assure that it would be as complex as possible. Audit staff states no theory as to how this would ever benefit Eversource and Eversource rejects any such implication. There is no benefit to Eversource in creating a needlessly complex rate case proceeding before the Commission because it would only make it more unlikely that the Company's proposals could or would be accepted.

22. As to the complexity and the Audit Report's assumption that different timing would have made for a simpler filing and that some test year other than 2018 would have inherently been less complicated – that conclusion is entirely speculative and without support. Moreover, such a conclusion assumes that it was Eversource's sole election that somehow created a complex proceeding, which is not the case. To the extent that the case was complex, the complexity grew out of numerous issues over which Eversource had no control. There were nine intervenors in the matter including the Staff and the OCA. Those entities, collectively, served over 1,000 data requests (excluding questions with numerous subparts) for Eversource to answer. There were multiple rounds of testimony filed by various parties, including the Staff, which included vigorous counters to Eversource's claims and which Eversource was entitled to rebut.

23. Additionally, difficulties presented by the on-going pandemic made for a more complex proceeding. These difficulties included the Governor's permission, which the Commission used, to extend the duration of the rate proceeding by six months over the otherwise applicable statutory deadline. The Commission's choice to extend the rate case proceeding led directly to additional rounds of testimony and discovery,⁶ all of which required greater legal support than would have been required in a "regular" rate case filing. In the face of these facts, the Audit Report's conclusion that the Company is somehow to blame for the complexity and cost of the case is illogical and unfair. The Audit Report's conclusion, supported by the Staff, accounts for none of these factors, nor does it attempt to meaningfully justify ignoring them in recommending that legal costs be rejected.

24. Furthermore, the Audit Report's unsupported presumption that in-house attorneys alone would be sufficient to handle a matter such as this runs counter to general principles in New

⁶ See Order No. 26,363 (June 16, 2020) requiring Eversource and others to file additional testimony and respond to additional discovery.

Hampshire surrounding recovery of legal costs. As has been observed by courts reviewing the propriety of awarding recovery of legal fees, there are numerous issues to consider in making determinations about the recovery of fees. In New Hampshire, courts have used the *Funtown* analysis in determinations of awards of attorney's fees where the court reviews: the amount involved, the nature, novelty, and difficulty of the litigation, the attorney's standing and the skill employed, the time devoted, the customary fees in the area, the extent to which the attorney prevailed, and the benefit bestowed on the client. See *Town of Barrington v. Townsend*, 164 N.H. 241, 249-250 (2012) (quoting *Funtown USA, Inc. v. Town of Conway*, 129 N.H. 352, 356 (1987)).

25. Although not controlling, it is instructive that courts review the substance of the representation to determine recovery, not just the fact that representation could have been provided by others. In this case, neither the Audit Report nor the Staff's communication reviewed any of those types of issues in determining whether recovery of legal costs was appropriate. Rather, despite the fact that the Audit Report takes no issue with the method of procurement; the qualifications of, and rates for, the counsel retained; or the time spent or the descriptions of the activities done; it simply concludes that existing legal support was sufficient and presumes that outside lawyers should not have been hired at all. In light of there being no indication that there were any shortcomings in the representation provided, and that Eversource has fully substantiated the work done by the attorneys who were retained, the evidence shows that the expenses are reasonable and appropriate for recovery.

26. Lastly on the issue of legal costs, the Audit Report's recommendation that legal costs be disallowed as the kind of work typically handled by utility staff is internally inconsistent because it ignores the Staff's own retention of outside legal counsel. As noted in Eversource's response to the draft audit, this case represents the first and only time that Eversource is aware of

where the Staff retained an outside attorney for its work on a rate case. The Staff itself expended over \$130,000 for that help which the Audit Report recommends be recovered in full.⁷ This hiring and spending occurred even though the Staff has more attorneys focused on New Hampshire regulatory matters than does Eversource. The Audit Report justifies this disparate treatment by, again, blaming Eversource for filing a rate case when it did and by claiming that there were other rate cases occurring at the same time that required legal attention.

27. As to the timing, Eversource is not aware of any obligation that it has to file rate cases on a particular schedule or in coordination with other utilities in New Hampshire and the presumption that timing justifies the Staff's legal costs, but not Eversource's, is entirely baseless. Additionally, though there may have been other cases going on at the same time, the Staff did not hire outside legal assistance for any of those other cases – only for Eversource's case. That is, when faced with a desire to supplement its in-house legal counsel, the Staff did so for only one case, this one. The only logical conclusion from that choice is that the Eversource case was the one most in need of additional legal support. That fact alone supports the conclusion that this was not a typical case for which the regular legal workforce was adequate. For the above reasons, the Commission should reject any proposal to disallow recovery of legal costs.

28. With respect to Randstad, the Audit Report recommends disallowance of all of the temporary support services costs related to the Randstad employees' work by claiming that it was unable to identify specific tasks performed by the Randstad employees. Such a conclusion runs counter to the requirements of the Commission's rules and is, in any event, without foundation.

29. In requesting recovery of rate case expenses, the Commission's rules, Puc 1905.03, require that the utility provide certain documentation including the invoices paid, the name of the

⁷ Of note, the Staff's outside counsel did not begin work until the case had been prepared and filed and was already several months along. See Eversource's January 15, 2021 rate case expense filing at 934.

vendor, the amount of the expenses, and the date and description of the services rendered among other things. In response to this requirement, Eversource provided the documentation at Bates pages 285-351 supporting the costs to be included for Randstad and answered the audit staff's inquiry for supporting information. Also, as noted on page 16 of the Audit Report, Eversource described the individuals from Randstad performing work for Eversource and provided details on the work they performed in support of the rate case. This information had also been provided during the course of discovery in response to question OCA 7-039, was known to the audit staff, and was recited in the Audit Report. As described in response to OCA 7-039, and as reiterated in the Audit Report:

Randstad provided four analysts, led by an Eversource retiree, as additional resources to the Company's internal personnel in preparing information and exhibits in support of the capital plant additions portion of this rate case. Specifically, the Randstad analysts were necessary to assist in compiling project documentation and supporting information for the Company's initial filing and for responses to data requests pertaining to capital planning and capital additions. This work was supported primarily by the Company's Investment Planning staff, but required supplemental resources due to the large number of capital projects over the six-year time span since the Company's last step increase. Eversource's existing Investment Planning staff do not have the bandwidth to support normal daily operations as well as rate case work and therefore it was necessary, and more cost effective, to bring in temporary assistance for purposes of the rate case. The Randstad contractors have a unique set of skills as retirees of Eversource and have familiarity with Eversource's capital project documentation and processes as these contractors have performed this work for other rate cases when needed. Using contractors is a more cost-effective approach to handle the additional workload of a rate case than to hire full-time employees. The Randstad contractors were critical to enable PSNH to prepare and file information on its plant additions and capital programs that is comprehensive, responsive and well-documented.

Audit Report at 16.

Accordingly, Eversource provided all of the information required by the Commission's rules to substantiate the charges for which recovery was sought.

30. Despite receiving sufficient information supporting the work performed and the costs for that work consistent with the Commission's rules, the Audit Report recommends a disallowance by claiming that the audit staff was unable to verify the specific tasks performed by the Randstad contractors. As noted above, however, there is no requirement that specific tasks be tied to specific costs to justify recovery. Rather, there is only a requirement for descriptions of the work performed, which was provided, along with detailed accounting entries showing the costs charged. Moreover, during the audit, the audit staff did not request from Eversource the kind of information for specific tasks that it now faults Eversource for not providing.

31. In the interest of complementing the information that was previously submitted, however, Eversource provides this additional information. As described in OCA 7-039 and in the Audit Report, preparing the rate case filing in this case required the collection of substantial plant records. Specifically, this filing required information on plant-in-service collected by year and tied to the relevant FERC report for each year from 2013 through 2018 as well as information on capital expenditures for all projects and programs for those same years. This data was sorted into numerous categories and grouped by year to populate the data for the over 300 pages of entries included in Attachments ELM-2 and ELM-3 in Exhibit 13 in this proceeding.

32. Collecting, compiling and cross referencing that information can take months for each year in issue as the data is compared to the annual FERC filing, and the related documentation for all of the projects is gathered and reconciled. Beyond the data found in the referenced attachments, other project documentation (including authorizations, supplements, and closing reports) is secured. That information was provided in response to discovery on particular projects through the course of the docket. The size and scope of this effort, which only occurs for rate cases, is significant, and beyond that which can be accomplished by Eversource's regular staff –

Eversource cannot simply repurpose its existing staff for months at a time. Accordingly, temporary support services were required.

33. Pursuant to Eversource's contract with Randstad for temporary support staff, when a temporary employee is hired through Randstad and enters their time in the Randstad payroll system, the hiring manager at Eversource provides a default work order which directs the charges to a FERC account associated with that work order. The default work order is assigned based on the tasks that employee is working on, and in this case was directed to the rate case filing. The hiring manager also approves the payroll each week for the temporary employees they are overseeing in the Randstad payroll system.

34. For purposes of making payments, Randstad submits an EDI invoice to Eversource. There is no physical invoice, but the EDI invoice contains the list of employees, their hours, and their rates. Using the default work order provided, the charges associated with the temporary employees' expenses are applied to the FERC account associated with the default work order. Accordingly, Eversource does not have, and cannot provide, a traditional invoice but did provide to the audit staff the detailed time sheet entries, including the timesheet ID from the Randstad system with the employees' names, hours and rates. Thus, Eversource has provided the documentation required and anticipated by the Commission's rules, has described and explained the work performed in support of the rate case filing, and has substantiated the costs incurred. There is no basis for a disallowance.

35. Lastly, with respect to the contested charges relating to Economists, Inc. the Audit Report concludes that the costs are appropriate costs, but claims that recovering those costs as a rate case expense is improper. This conclusion overlooks the purpose of the work that led to those

costs and it overlooks the fact that there is no other location for the recovery of those costs. Accordingly, that recommendation should be rejected.

36. On June 23, 2017 in Docket No. DE 16-576, the Commission issued Order No. 26,029 and established numerous requirements for utilities, including that Eversource was to perform a full marginal cost-of-service study. Order No. 26,029 at 61. Consistent with the Commission's directive (as modified by a secretarial letter of June 29, 2018 in that docket), Eversource filed its cost of service study on July 16, 2018. On February 20, 2019, the Commission issued Order No. 26,221 in Docket No. DE 16-576 which, among other things, noted that Eversource was in the process of updating its cost-of-service study so that an up-to-date version would be filed with its forthcoming rate case. The Commission ordered "Eversource to file in this docket its updated MCOS Study, and a summary of the material changes between the original and updated versions of that study, at the same time the updated MCOS Study is filed in its rate case." Order No. 26,221 at 16. Eversource included the updated study in its rate case and made the required filing in Docket No. DE 16-576 on May 28, 2019. That updated study was used throughout the instant docket.

37. In light of the above, it should be clear that the cost-of-service work performed by Economists, Inc. was not undertaken in a vacuum where only Docket No. DE 16-576 existed and where Eversource was intent only in conforming to its terms. At the time it issued Order No. 26,221 the Commission was aware that Eversource had committed to filing a rate case in 2019 using a 2018 test year. *See* November 16, 2018 Petition in Docket No. DE 18-177 (initially filed in Docket No. DE 17-196) at 7. In that a required component of that rate case filing was the submission of cost-of-service studies, *see* April 30, 2010 settlement agreement in Docket No. DE 09-035 at Section 14.3, page 14, Eversource intended to, and did, rely upon the cost-of-service

work that was already done to complete the work necessary for the 2019 rate case filing. Accordingly, though noted as being within the context of Docket No. DE 16-576, the costs of the studies by Economists, Inc. were directly related to the cost-of-service studies Eversource filed and used in this proceeding.

38. The Audit Report contends that “Recovery of expenses associated with docket DE 16-576 should be reviewed and considered in the context of that docket, rather than this DE 19-057 docket.” Audit Report at 17. That is, the Audit Report’s concern is less about the costs and more about where to recover them. There is no mechanism for the recovery of the Company’s consultants’ costs through Docket No. DE 16-576. While there is a mechanism and method for recovering expenses of the Staff and OCA in that docket, there is no order or other provision that allows for utilities like Eversource to recover their costs. Accordingly, because these are rate case costs and because there is a means of recovering them in the rate case, they should be included for recovery. The Audit Report’s presumption that these costs could simply be reassigned for evaluation and recovery in that docket is incorrect. These are rate case-related costs and rate-case expense recovery is the appropriate place for recovery of those costs.

WHEREFORE, Eversource respectfully requests that the Commission:

- A. Reject the Staff communication; or
- B. If the communication is not rejected, reject the disallowances proposed in the communication; and
- C. Grant such further relief as is just and equitable.

Respectfully submitted,
Public Service Company of New Hampshire d/b/a Eversource Energy
By Its Attorney




By: _____
Matthew J. Fossum
Senior Regulatory Counsel
Public Service Company of New Hampshire d/b/a Eversource Energy
780 No. Commercial Street, P.O. Box 330
Manchester, NH 03105-0330
(603) 634-2961
Matthew.Fossum@eversource.com

Dated: September 24, 2021

CERTIFICATE OF SERVICE

I hereby certify that, on the date written below, I caused the attached to be served pursuant to N.H. Code Admin. Rule Puc 203.11.

____ September 24, 2021 ____
Date



Matthew J. Fossum