

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

Distribution Service Rate Case

**OPPOSITION TO EVERSOURCE MOTION TO RESOLVE DISPUTE REGARDING
SETTLEMENT AGREEMENT IMPLEMENTATION**

NOW COMES the Office of the Consumer Advocate (“OCA”) and, pursuant to N.H. Code Admin. Rules Puc 203.07, respectfully requests that the New Hampshire Public Utilities Commission deny the pending motion of Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource”) to resolve a dispute regarding the Settlement Agreement previously approved in this docket.

Specifically, Eversource seeks resolution of a dispute arising out of Section 3.2 of the Settlement Agreement approved by the Commission in Order No. 26,433 (December 15, 2020) (tab 143). “The settlement agreement reflects the unanimous agreement of all parties to resolve all matters pertaining to Eversource’s permanent rate request.” *Id.* at 11. “Under Section 3.2, Eversource agreed to a business process audit (“BPA”) to be conducted and overseen by Commission staff using a third-party consultant as detailed in Appendix 2.” *Id.* at 12. Since the

entry of Order No. 26,433, the Commission Staff has been succeeded by the Regulatory Support Division of the subsequently established Department of Energy and, accordingly, it is the Department that has assumed responsibility for the BPA.

Eversource is now embroiled in a dispute with the Department over the completion of the BPA. The Department hired River Consulting Group (“RCG”) to perform the Business Process Audit; Eversource now contends the Department has improperly compromised the independence of the consultants by making unilateral revisions to their report and had improperly failed “to provide a transparent record of the revisions.” Eversource Motion (tab 254) at 2. Eversource requests that the Commission: “[d]irect the DOE to provide the original RCG BPA report submitted to the DOE in August 2022, along with redlined changes between the August Report and November Report, to Eversource; [e]stablish a process and schedule for further input on the RCG BPA Report by DOE and the Company to correct factual errors, if any, and to prepare a filing of the BPA Report with the Commission.” *Id.* at 12.

There is no basis in either the applicable statutes or PUC rules for granting the relief requested by Eversource. No statute nor rule of the Commission is cited in the Eversource Motion. The only provision of the Commission’s rules that concerns an adjudicative proceeding for which the record is closed is N.H. Code Admin. Rules Puc 203.30, which covers reopening the record when “the late submission of additional evidence [that] will enhance [the Commission’s ability to resolve the matters in dispute.” But the “matters in dispute” in Docket DE 19-157 were the utility’s request to increase its distribution rates, not events subsequent to the implementation of new rates as specified in the settlement.

Rule Puc 203.07 covers motions in adjudicative proceedings before the Commission. That rule requires the movant to state, “clearly and concisely,” both the facts and the law that support the motion. Rule Puc 203.07(d). As already noted, Eversource cites no law in support of its motion because there is no such law. It stretches Rule Puc 203.07 to the breaking point to allow the rule to become a vehicle for reopening adjudicative proceedings that have already been reduced to final and unappealable orders.

The situation described by Eversource in its motion, assuming *arguendo* that it has been accurately characterized, does not leave the utility without recourse. The Company can file a petition under Rule Puc 203.06, which would presumably cause the Commission to open a new adjudicative proceeding that would include a full and fair opportunity for interested persons to intervene and to participate. It would, however, likely be a wiser course of action for Eversource simply to await the completion of the Business Process Audit and then impeach the document as necessary when the report becomes the basis of positions to be taken by the Department (or perhaps other parties) in a future rate proceeding.

It is noteworthy that Eversource does not accuse the Department of violating the terms of the Settlement Agreement or the Order approving that Agreement. The utility simply does not like the manner in which the Department has overseen the development of the Business Process Audit as performed by a contractor hired by the Department. Although the Commission has plenary authority over Eversource, *see* RSA 374:3 (referring to “the general supervision of all public utilities”) the PUC has no such rights as to the Department of Energy. In these

circumstances, the Commission must deny the Eversource motion and reverse its procedural order entered on March 22, 2023 (tab 255) reopening this proceeding.

Respectfully submitted,



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March 22, 2023

CERTIFICATE OF SERVICE

I hereby certify that a copy of this pleading was provided via electronic mail to the individuals included on the Commission's service list for this docket.



Michael J. Crouse