

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 19-057

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

Motion for Reconsideration and Clarification of Order No. 26,504

**Order Denying Motion for Reconsideration and
Clarifying Order No. 26,504**

O R D E R N O. 26,528

September 27, 2021

In this order, the Commission denies the motion for reconsideration filed by Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource”) on August 27, 2021. In addition, the Commission clarifies the aspects of its order for which Eversource sought clarification.

I. PROCEDURAL HISTORY

Eversource filed a notice of intent to file rate schedules on March 22, 2019, and on April 26, 2019, filed notice of its intent to file schedules for permanent rates. On October 9, 2020, all parties filed a settlement agreement on permanent rates (“Settlement Agreement”), which the Commission approved through Order No. 26,443 on December 16, 2020. The Settlement Agreement established permanent rates based on a 2018 test year. Among its provisions, the Settlement Agreement provided for three annual step increases to account for plant placed in service in calendar years 2019, 2020, and 2021.

On May 3, 2021, Eversource filed a petition requesting recovery of \$11,126,440 in revenue requirement associated with \$124,215,062 of plant additions placed in service during calendar year 2020, the second step increase established by the Settlement Agreement. On July 19, 2021, the Commission held a hearing, and on July

30, 2021, it issued Order No. 26,504 authorizing Eversource to recover annual revenue requirement associated with \$123,141,062 of plant additions placed in service in calendar year 2020.

Eversource filed the present Motion for Reconsideration and Clarification of Order No. 26,504 on August 27, 2021. The Department of Energy (“Energy”) filed a response on September 2, 2021.

II. POSITIONS OF THE PARTIES

A. Eversource

Eversource seeks reconsideration of three aspects of the Commission’s Order. First, it asks that the Commission reconsider disallowing the recovery of \$911,000 of the costs it incurred resolving an engineering flaw in its Pemigewasset Substation Project. Second, Eversource seeks reconsideration of the Commission’s disallowance of \$163,000 of costs incurred replacing a submarine cable in Lake Winnepesaukee. Third, Eversource asks the Commission to reconsider its decision to treat load tap changer controls (“LTCCs”) as an expense item rather than a capital item.

In addition, Eversource seeks clarification of the Commission’s decision to approve property damage attributable to third parties “subject to reconciliation.” Finally, it seeks clarification of the Commission’s decision to begin accounting LTCCs as an expense item “on a going forward basis.”

B. Department of Energy

Energy urges the Commission to reject Eversource’s request for rehearing on the Pemigewasset Substation Project issue and the LTCC accounting issue. It agrees with Eversource, however, that the prudence of the Winnepesaukee cable replacement project should be reconsidered by the Commission in light of the disparity between the initial estimate of \$360,000 and the supplemental request of \$1.9 million. Energy asserted it is unclear from the record whether either of the Company’s estimates

considered repair options rather than replacement, and why those options — such as cable injection — were not the preferred alternative to total replacement. Energy’s response does not address the issues for clarification raised by Eversource.

III. COMMISSION ANALYSIS

A. Standard of Review

The Commission may grant rehearing or reconsideration for “good reason” if the moving party shows that an order is unlawful or unreasonable. RSA 541:3; RSA 541:4; *Rural Telephone Companies*, Order No. 25,291 (November 21, 2011); *see also Public Service Company of New Hampshire d/b/a Eversource Energy*, Order No. 25,970 at 4-5 (December 7, 2016). A successful motion must establish “good reason” by showing that there are matters that the Commission “overlooked or mistakenly conceived in the original decision,” *Dumais v. State*, 118 N.H. 309, 311 (1978) (quotation and citations omitted), or by presenting new evidence that was “unavailable prior to the issuance of the underlying decision,” *Hollis Telephone Inc.*, Order No. 25,088 at 14 (April 2, 2010). A successful motion for rehearing must do more than merely restate prior arguments and ask for a different outcome. *Public Service Co. of N.H.*, Order No. 25,970, at 4-5 (citing *Public Service Co. of N.H.*, Order No. 25,676 at 3 (June 12, 2014); *Freedom Energy Logistics*, Order No. 25,810 at 4 (September 8, 2015)).

B. Issues for Rehearing

i. Pemigewasset Substation

Eversource first argues that the Commission erred in finding the \$911,000 in costs incurred resolving the engineering flaw in its Pemigewasset Substation Project were imprudent because “it never specified the particular basis for its conclusion.” Mot. for Reh’g at 6 ¶ 12. The Commission’s order, however, identifies several facts providing ample support for the conclusion that the costs were imprudently incurred. Namely, Eversource’s “contracts limit contractor liability, . . . [Eversource] did not seek

any ‘insurance’ claim through the contractor for ‘consequential’ damages, and . . . [Eversource’s] own internal reviews did not catch the issue.” Order at 6. To the extent Eversource argues that the Commission should have weighed these facts differently and reached a contrary conclusion, such an argument cannot form the basis to grant rehearing. *See Public Service Co. of N.H.*, Order No. 25,970, at 4-5.

Eversource further argues that the Commission should grant rehearing because the Commission’s order “does not define or explain what the standard of prudence is.” Mot. for Reh’g at 7 ¶ 14. Eversource does not argue the Commission applied the wrong standard. Instead, it appears to argue that the Commission’s failure to cite to a standard in its order requires rehearing. The prudence standard is, however, well established, as evidenced by the numerous Commission dockets and New Hampshire Supreme Court cases cited by Eversource. *Id.* To the extent the Commission erred by not citing to a case for the prudency standard, that error is harmless because the costs incurred were imprudent under the standard established by the cases Eversource cites. As is evident from the Commission’s Order, the Commission does not fault Eversource for its contractor’s errors. However, Eversource’s imprudent contracting practices left it insufficiently insulated against its contractor’s errors, incurring nearly \$1 million in additional costs. The motion to reconsider the Commission’s prudency finding on this issue is denied.

ii. Winnepesaukee Cable Replacement

Eversource’s argument with respect to the Winnepesaukee cable replacement similarly fails because it amounts to another request that the Commission re-weigh the same evidence and reach a contrary conclusion. Although Eversource asserts that there is “no basis for the Commission’s conclusion,” Mot. for Reh’g at 10 ¶ 19; the Order, in fact, identifies the insufficient “underlying analysis and estimate regarding this project” was the basis for concluding that the costs were imprudently incurred,

Order at 6. Eversource provides no new evidence nor identifies any error of law undermining the Commission's conclusion.

Energy's argument that the Commission should grant rehearing because "it is unclear from the record whether either of [Eversource's] estimates considered repair options rather than replacement," Resp. to Mot. for Reh'g at 4 ¶ 8, similarly fails. This assertion falls far short of identifying evidence that was overlooked, mistakenly conceived, or not available at the time of the original order. Energy observed in a footnote that the list provided by the Company of alternatives considered did not include cable repair options. If Energy had identified evidence in the record on the repair costs of the cable that the Commission had overlooked, that might form the basis to grant rehearing. But Energy has merely asserted the hypothetical existence of such evidence. Accordingly, Eversource's and Energy's requests for rehearing on the Winnepesaukee cable issue are both denied.

iii. LTCCs as Expense Item

Eversource argues the Commission should grant rehearing on its decision to treat LTCCs as an expense item, rather than a capital item, because Eversource did not have sufficient opportunity to be heard on that issue prior to the Commission reaching this determination. The Commission's decision to change the treatment of LTCCs was based upon the Step 1 audit report. Eversource had access to this report prior to the adjustment hearing and had the opportunity to respond to the recommendations contained therein. As noted in the Order, at the hearing, Eversource discussed its historical treatment of this expense as a maintenance expense. With its motion, Eversource has not identified any error of law or fact that the Commission overlooked or mistakenly conceived and instead merely disagrees with the Commission's Order regarding the audit recommendation. This cannot form the basis to grant rehearing and Eversource's motion is, accordingly, denied.

C. Issues for Clarification

To the extent necessary, the Commission now clarifies the following terms.

i. “Subject to reconciliation”

The Commission’s use of the phrase “subject to reconciliation” is in reference to the amount included in the step adjustment the Department of Energy Audit Report concluded does not account for the anticipated contributions and the Department of Energy raised at hearing. See Exh. 63 at 6. As Eversource stated at hearing, this is an ongoing issue dating back to the first step adjustment in this matter that "could be resolved through or further understood through the business process audit." Hearing Transcript of 7/19/21 at 101. The Commission clarifies that while Order No. 26,504 found that Eversource may recover the identified amounts through distribution rates, because of the ongoing nature of the dispute over the treatment of those expenses and the Company’s representation that it could be resolved through or further understood through the anticipated business process audit, such costs should be subject to reconciliation based on the outcome of the business process audit. The Commission clarifies that it will take the issue up upon a motion filed by a party based on the outcome of the business process audit as necessary, and after affording the parties all due process.

ii. “On a going forward basis”

The Commission’s use of the phrase “on a going forward basis” means “as of the date of this order,” namely, as of July 13, 2021.

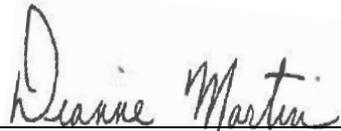
Based upon the foregoing, it is hereby

ORDERED, that Eversource’s motion for reconsideration is denied as to all issues; and it is

FURTHER ORDERED, that Energy’s motion for reconsideration is likewise denied; and it is

FURTHER ORDERED, that the Commission's Order is clarified as explained in section C above.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of September, 2021.



Dianne Martin
Chairwoman



Daniel C. Goldner
Commissioner

Service List - Docket Related

Docket# : 19-057

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