

STATE OF NEW HAMPSHIRE

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February 8, 2022

New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301

Re: Docket No. DE 19-142
Public Service Company of New Hampshire d/b/a Eversource Energy
Rate Recovery of Costs . . . [re] Berlin Station LLC

To the Commission:

The Office of the Consumer Advocate (“OCA”) is in receipt of a pleading, filed today in the above-referenced docket, captioned “Berlin Station LLC’s Motion for an Expedited Status Conference.” The OCA opposes this request from Berlin Station LLC and, in the interest of efficiency, begs the Commission’s indulgence in allowing us to state our position briefly via this letter.

On February 18, 2020, the Commission entered Order No. 26,233, approving an amended power purchase agreement between Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource”) and Berlin Station LLC. In so doing, the Commission was effectuating certain directives contained in Chapter 240 of the 2018 New Hampshire Laws. Now, according to the Motion just filed by Berlin Station LLC, continued application of the terms of this agreement “will create an extreme financial hardship for Berlin Station and threatens the continued viability of the plant.” Motion at 8, ¶ 22.

Even assuming this assertion to be true – and, query whether that is so given the astronomical levels at which wholesale electricity has been trading recently at ISO New England – this is not a valid basis for the Commission to convene a “status conference,” much less one on an expedited basis. There is simply nothing for the Commission to decide and, indeed, the Motion filed by Berlin Station LLC does not request any substantive action by the Commission.

Although Berlin Station LLC implies that it agreed to the terms specified two years ago in Order No. 26,233 under duress, *see* Motion at 7, ¶ 19 (“With impending financial hardship approaching . . . Berlin station had little choice but to agree to a settlement”) it is not seeking to void the previous bargain for that reason. Nor has Berlin Station LLC entered into a new power purchase agreement that would require approval of the Commission. In these circumstances, the only purpose of a status conference would be to give Berlin Station LLC another platform from which to argue, yet again, for subsidies that would ultimately come from Eversource’s customers.

Berlin Station LLC has already had such an opportunity in recent days, when the Senate Committee on Energy and Natural Resources held a public hearing on Senate Bill 271 on February 1, 2022. As I said, in writing, on that occasion:

It is for the General Court, and not the Consumer Advocate, to determine whether the public policy of our state requires the customers of Eversource Energy (or any other public utility) to pay for, via nonbypassable charges, initiatives . . . that are unrelated or at least only tangentially related to the service customers obtain from their utility. There is certainly a long history of New Hampshire ratepayers being required to do just that in connection with wood-burning generation facilities deemed by the Legislature to be essential to the economic well-being of the North Country.

Should some version of Senate Bill 271 become law, or should some matter related to Berlin Station LLC come before the Commission for any other reason, the OCA would, of course, participate actively. But our time and resources are limited. So are those of the Commission. Therefore, convening a “status conference” purely for discussion purposes would not be a provident use of resources that are ultimately provided by the state’s utility ratepayers. We therefore respectfully request that the Commission deny the Berlin Station LLC motion.

Thank you for considering our views.

Sincerely,

A handwritten signature in blue ink, appearing to read 'DKreis', written in a cursive style.

Donald M. Kreis
Consumer Advocate

cc: Service list