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September 20, 2021

Dianne Martin, Chairwoman
New Hampshire Public Utilities Commission
21 South Fruit Street
Concord, NH 03301-2429

Re: Docket No. DE 21-077, Eversource Energy Default Service
Proposed Reconciliation Adjustment to Disallow Certain
Class III REC Purchase Costs for RPS Compliance

Dear Chairwoman Martin:

The Department of Energy (Department) hereby submits to the Public Utilities Commission (Commission) a recommended reconciliation adjustment with respect to purchases by Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource) of Class III renewable energy certificates (RECs) for 2020 Renewable Portfolio Standard (RPS) compliance. The proposed reconciliation adjustment may be reviewed and adjudicated in connection with Eversource's December Energy Service (ES) rate filing. The Department maintains that a disallowance of \$1,592,755 of such costs is warranted based on Eversource's procurement during July 2020 of Class III RECs at prices in excess of the statutory alternative compliance payment (ACP) rate applicable to New Hampshire RPS Class III.

Background

On June 22, 2021, a hearing was held in this docket in which Eversource sought approval of its filing for new ES (i.e., default service) rates to be effective for the six-month period beginning on August 1, 2021. An informal technical session had been held with the Commission's Electric Division Staff, who are now staff of the Department's Division of Regulatory Support (Staff) to review and discuss questions regarding Eversource's filing. In particular, Staff questioned Eversource on two issues related to costs incurred in connection with its purchases of Class III RECs for 2020 RPS compliance, as described further below.

On June 24, 2021, the Commission issued Order No. 26,491, in which it directed Eversource to provide additional information regarding its REC purchases, by providing an exhibit that shows the vintage (year), quantity, and price paid for RECs, and the

applicable [ACP] rate for each REC transaction, included in [Eversource's] RPS cost reconciliation. The Commission's order further stated as follows:

In addition, Staff stated that additional review of [Eversource's RPS] compliance costs included in its reconciliation and projection was warranted. We direct [Eversource] to work with Staff to conduct such review and to provide all necessary related information, including, but not limited to, its REC purchases, banking, use, retirement, write-offs, and the applicable ACP rates for all RECs in [its] RPS reconciliation. If, after the review, any agreed upon adjustments to the RPS costs are necessary, [Eversource] agreed to make an adjustment to the reconciliation amount in its December [ES] filing. We adopt Staff's recommendation to have any recommended reconciliation adjustments with which [Eversource] does not agree presented to the [Commission] for review and adjudication in the December energy service filing and direct [Eversource] and Staff to do so.

These are the two issues regarding Eversource's Class III REC purchases identified by Staff's review and analysis:

1. In testimony of White on Attachment FBW-4, which provides Eversource's proposed RPS Adder to ES rates for the period beginning on August 1, 2021, Staff determined that Eversource had included a market price for Class III RECs that was greater than the ACP rate. The ACP is generally considered to serve as a price cap for RECs, and retail electricity providers required to comply with the RPS (i.e., electric distribution utilities and competitive electric power suppliers) should not pay more per REC than the ACP rate, as the costs of any such purchases by utilities ultimately are passed through to their ratepayers.
2. The testimony of Menard at Attachment ELM-3, page 13 of 15, presented details of Eversource's 2020 REC purchases for purposes of calculating the overall net revenue lag in its updated lead-lag study. In the details presented, it appears that Eversource made several purchases of Class III RECs in 2020 at prices substantially higher than the ACP rate in effect at the time. *See* the attachment to this letter, which shows two purchases of Class III RECs: 69,500 RECs at \$54.03 each, and 15,000 RECs at \$50.42 each. The 2020 ACP as published on the Sustainable Energy Division's website was \$34.54.¹ Calculations show that those two purchases of Class III RECs totaled \$1,592,755 in excess of the statutory ACP rate. As the ACP price should be considered the price ceiling for RECs, regulated utilities should not purchase RECs at a price greater than the ACP and then seek to pass those excess costs through to their ratepayers.

During the hearing, Staff witness Eckberg addressed these two issues. *See* Hearing Transcript at 61-79.

¹ See https://puc.nh.gov/Sustainable%20Energy/Renewable_Portfolio_Standard_Program.htm.

A follow-up technical session was held on August 5, 2021 between Department and Eversource representatives to further discuss its 2020 Class III REC purchases. Eversource provided general information on its approach to REC purchases for RPS compliance and details regarding the specific Class III REC purchases of concern to Staff. Eversource described its strategy of procuring RECs through periodic competitive solicitations, with a particular focus on the request for proposals (RFP) issued in July 2020. The two purchases at prices over \$50 per REC were made as a result of that RFP.

According to Eversource, that RFP was issued at a time when House Bill 1234 (2020 Session) (HB 1234) had been passed by both houses of the state legislature and needed only the Governor's signature to be enacted. HB 1234 was an omnibus bill containing a provision (paragraph XXXI) that would have raised the ACP level to \$55 for all RPS classes, including Class III. HB 1234 was vetoed by the Governor on July 29, 2020, and the veto was sustained on September 16, 2020. As a result, that bill never became law and the Class III ACP rate was never changed from its statutory rate of \$34.54. Eversource's decision to purchase Class III RECs at prices higher than the statutory ACP rate may have been based on the expectation that HB 1234 would become law, but it did not become law because of the Governor's veto.

Analysis and Recommended Adjustment

Retail electricity providers such as Eversource are required to meet specific RPS compliance obligations under RSA 362-F:3, which provides as follows:

For each year specified in the table below, each provider of electricity shall obtain and retire certificates sufficient in number and class type to meet or exceed the following percentages of total megawatt-hours of electricity supplied by the provider to its end-use customers that year, except to the extent that the provider makes payments to the renewable energy fund under RSA 362-F:10, II: [RPS class percentages]

The statutory obligation to achieve RPS compliance through REC purchases and retirements is subject to a limited exception provided in RSA 362-F:10, II (emphasis added):

In lieu of meeting the portfolio requirements of RSA 362-F:3 for a given year ***if, and to the extent sufficient certificates are not otherwise available at a price below the amounts specified in this paragraph***, an electricity provider may, at the time of report submission for that year under RSA 362-F:8, make payment to the [Department] at the following rates for each megawatt-hour not met for a given class obligation through the acquisition of certificates: [RPS Class ACP rates]

As noted above, the applicable ACP rate is intended to effectively serve as a cap on the market price of RECs. If RECs cannot be purchased in the market at a price less than the ACP rate, then electricity providers are afforded the alternative mechanism of paying

ACPs to the Department (previously the Commission) to meet their RPS compliance obligations.

It is certainly possible that RECs eligible to meet New Hampshire Class III compliance may be available for purchase only at prices in excess of the applicable ACP rate, because New England has a multistate regional REC market in which RECs may be marketable in other states with higher ACP rates and broader eligibility criteria. In that situation, retail electricity providers would be expected to make the rational economic decision to pay ACPs rather than purchase Class III RECs at excessive prices, as is expressly provided under RSA 362-F:10, II.

Department Staff believe that a regulated utility's purchase of RECs for a cost higher than the ACP is both inconsistent with the law and *per se* imprudent. That is so notwithstanding the uncertain status of pending legislation at any given time. Eversource ratepayers should not be responsible for the excess amount of \$1,592,755, currently included in its ES rates, that was incurred because Eversource purchased Class III RECs at prices much higher than the applicable ACP rate.

Department Staff therefore recommend that an adjustment in that amount be made to the reconciliation of related ES costs in connection with Eversource's December ES rate filing, as well as a review of any related calculation of the lead-lag study used in this proceeding that may be affected by such adjustment.

Sincerely,

/s/ David Wiesner

David K. Wiesner
Legal Director/Sr. Hearings Examiner

cc: Docket Service List

Public Service Company of New Hampshire d/b/a Eversource Energy
Energy Service Cash Working Capital Requirements
Year Ending December 31, 2020
Renewable Energy Certificate Market Purchases

Line No.	Vendor (A)	RPS Class (B)	REC Vintage Year (C)	Transfer Date (D)	Compliance Period Midpoint (E)	Payment Date (F)	Lead Lag Days (G) = (F) - (E) (G) = (K) / (J)	# of RECs Delivered (H)	REC Price (I)	Payment (J) = (H) * (I)	Dollar Weighted Days (K) = (G) * (J)
1	White Mountain Hydroelectric Corporation	IV	2020	07/16/2020	06/30/2020	07/29/2020	29	1,067	\$ 26.00	\$ 27,742	\$ 804,518
2	WES Energy & Environment, LLC	I Thermal	2020	07/21/2020	06/30/2020	07/31/2020	31	5,585	\$ 25.50	142,418	4,414,943
3	Hydro Management Group	IV	2020	07/23/2020	06/30/2020	08/05/2020	36	8,182	\$ 21.50	175,913	6,332,868
4	Engle Energy Marketing NA, Inc	III	2020	08/19/2020	06/30/2020	08/25/2020	56	69,500	\$ 54.03	3,755,055	210,283,080
5	WES Energy & Environment, LLC	I Thermal	2020	10/16/2020	06/30/2020	10/29/2020	121	8,894	\$ 25.50	226,797	27,442,437
6	White Mountain Hydroelectric Corporation	IV	2020	10/16/2020	06/30/2020	10/28/2020	120	1,826	\$ 26.00	47,476	5,697,120
7	Hydro Management Group	IV	2020	10/20/2020	06/30/2020	11/03/2020	126	7,205	\$ 21.50	154,908	19,518,345
8	NDGCAP LLC	IV	2020	10/28/2020	06/30/2020	11/09/2020	132	3,198	\$ 24.00	76,752	10,131,264
9	Bridgewater Power Company LP	III	2020	01/15/2021	06/30/2020	01/25/2021	209	15,000	\$ 50.42	756,250	158,056,250
10	White Mountain Hydroelectric Corporation	IV	2020	01/15/2021	06/30/2020	01/28/2021	212	438	\$ 26.00	11,388	2,414,256
11	WES Energy & Environment, LLC	I Thermal	2020	01/19/2021	06/30/2020	01/28/2021	212	6,106	\$ 21.50	131,279	27,831,148
12	Knollwood Energy of MA LLC	II	2020	01/19/2021	06/30/2020	01/29/2021	213	2,500	\$ 44.00	110,000	23,430,000
13	NDGCAP LLC	IV	2020	01/26/2021	06/30/2020	02/05/2021	220	717	\$ 24.00	17,208	3,785,760
14	Hydro Management Group	IV	2020	04/16/2021	06/30/2020	04/28/2021	300	1,186	\$ 21.50	25,499	7,649,700
15	WES Energy & Environment, LLC	I Thermal	2020	04/19/2021	06/30/2020	04/28/2021	302	3,000	\$ 25.50	76,500	23,103,000
16	WES Energy & Environment, LLC	I Thermal	2020	04/19/2021	06/30/2020	04/28/2021	302	6,026	\$ 25.50	153,663	46,406,226
17	White Mountain Hydroelectric Corporation	IV	2020	04/19/2021	06/30/2020	04/29/2021	303	1,125	\$ 26.00	29,250	8,862,750
18	Blackstone Hydro Inc	IV	2020	04/20/2021	06/30/2020	04/29/2021	303	2,610	\$ 24.95	65,120	19,731,209
19	NDGCAP LLC	IV	2020	04/20/2021	06/30/2020	04/30/2021	304	2,585	\$ 24.00	62,040	18,860,160
20	Hydro Management Group	IV	2020	04/22/2021	06/30/2020	04/30/2021	304	2,702	\$ 25.00	67,550	20,535,200
21	ISG Solar LLC	II	2020	05/20/2021	06/30/2020	06/02/2021	337	827	\$ 42.50	35,148	11,844,708
22	NDGCAP LLC	IV	2020	05/26/2021	06/30/2020	06/04/2021	339	1,000	\$ 29.00	29,000	9,831,000
23	Subtotal						108	151,279		\$ 6,176,954	\$ 666,965,941
24	Annual Compliance Payment (ACP) (estimate)		2020		06/30/2020	06/30/2021	365			1,062,000	387,630,000
25	Total - Average						145.7	151,279		\$ 7,238,954	\$ 1,054,595,941

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