

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 21-078**

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE  
d/b/a EVERSOURCE ENERGY**

**Petition for Approval of Electric Vehicle Make-Ready and  
Demand Charge Alternative Proposals**

**Order Granting Joint Motion for Rehearing by Public Service Company of New  
Hampshire d/b/a Eversource Energy, and Allied Parties, and Modifying Term of  
Order No. 26,667 Regarding Tariff Effective Date**

**O R D E R N O. 26,690**

**September 28, 2022**

This order approves a motion for rehearing of the Commission's Order No. 26,667 relating to the Eversource EV Make-Ready Infrastructure program, proposed in connection with the VW Settlement, considered in this docket, and schedules a hearing for October 24, 2022 regarding the issues presented. This order also modifies a term of Order No. 26,667 regarding the effective date of Eversource's proposed Tariff considered in this docket.

**I. BACKGROUND**

On September 14, 2022, Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource), the New Hampshire Department of Energy, the New Hampshire Department of Environmental Services, the Office of the Consumer Advocate, Clean Energy New Hampshire, and the Conservation Law Foundation, (collectively, Moving Parties) jointly filed a Motion for Rehearing of Order No. 26,667 (Motion), which had been issued by the Commission in Docket No. DE 21-078 on August 15, 2022. Order No. 26,667 had also established an effective date for Eversource's compliance Tariff for its demand charge alternative (DCA) rate offering considered here of September 1, 2022. In its DCA compliance Tariff filing cover letter

of August 29, 2022, Eversource indicated that it believed that this September 1 date had been specified by the Commission in error, and Eversource presented proposed Tariff language with an effective date of December 15, 2022, to accommodate its system-rollout requirements for its new DCA EV rate offering.<sup>1</sup>

Eversource subsequently filed a second DCA compliance Tariff filing, also with an effective date of December 15, 2022, on September 19, 2022.

The Motion and associated docket filings are posted on the Commission's website at <https://www.puc.nh.gov/Regulatory/Docketbk/2021/21-078.html>

In their Motion, the Moving Parties outlined an argument against what they characterize as "...a de facto \$650,000 cap on any capital investments made in connection with the \$2.1 million [EV] Make-Ready Program, by restricting capital investments eligible for a rate of return." Motion at 4. The Moving Parties assert that "...setting the limit at \$650,000 is arbitrary and contradicted by record evidence." *Id.* The Moving Parties further assert that the operation of this "cap" somehow implicates an unconstitutional taking of Eversource's right to earn a return of capital investments, is "arbitrary and capricious," and contradicts "...the unanimous positions of the settling parties on the record." *Id.* at 5-9.

## **II. COMMISSION ANALYSIS**

Pursuant to RSA 541:3, the Commission may grant rehearing or reconsideration when a party states good reason for such relief. Good reason may be shown by identifying new evidence that could not have been presented in the underlying proceeding, *O'Loughlin v. N.H. Personnel Comm'n*, 117 N.H. 999, 1004 (1977), or by identifying specific matters that were "overlooked or mistakenly

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<sup>1</sup> See Eversource Letter of Jessica Chiavara, Esq., Senior Counsel, August 29, 2022, available here: [https://www.puc.nh.gov/Regulatory/Docketbk/2021/21-078/LETTERS-MEMOS-TARIFFS/21-078\\_2022-08-29\\_EVERSOURCE\\_CVR-LTR-COMPLIANCE-TARIFF-FILING.PDF](https://www.puc.nh.gov/Regulatory/Docketbk/2021/21-078/LETTERS-MEMOS-TARIFFS/21-078_2022-08-29_EVERSOURCE_CVR-LTR-COMPLIANCE-TARIFF-FILING.PDF)

conceived" by the Commission, *Dumais v. State*, 118 N.H. 309, 311 (1978). A successful motion for rehearing does not merely reassert prior arguments and request a different outcome. *Abenaki Water Company, Inc.*, Order No. 26,312 at 8-9 (November 27, 2019).

### **1. EV MAKE-READY INFRASTRUCTURE PROGRAM**

Upon reviewing the Moving Parties' Motion, the Commission is not convinced that the Moving Parties have met the burden of establishing the various elements of their arguments, that is, their purported causes of action, as a matter of law. The Commission is also not convinced that the Moving Parties have made adequate factual assertions to justify a reversal of the Commission's pre-approval decision regarding the capital-investment issue on a *prima facie* basis. Even so, the Commission, on its own motion, believes that a further hearing regarding the matters discussed in the Motion would be valuable, and may help to develop the record further regarding the Commission's interest in the ratemaking features it established for this novel EV program, proposed in connection with the VW EV Settlement, in Order No. 26,667, and the ratemaking principles touched upon by the Moving Parties in their Motion. To this end, we hereby order rehearing of this matter.

### **2. TARIFF EFFECTIVE DATE**

In the Settlement, the parties agreed that "[i]mplementation work [of the DCA] is estimated to take four months from Commission approval of this settlement agreement. To complete this work, Eversource requests and the Settling Parties support that the Commission allow the Company to treat any incremental costs of implementation of the DCA as a regulatory asset, so that all prudently-incurred costs may be recovered in the Company's next distribution rate case. See Settlement Agreement at 8-9. In Order No. 26,667, the Commission approved the DCA as

presented in the Settlement, which recognized the implementation efforts required by Eversource to offer the rate to customers. In an attempt to ensure that EV charging station customers would be informed of the upcoming DCA rate, including those that may participate within the VW Settlement projects, the Commission set an effective date of September 1, 2022 for the DCA implementation effort to commence and directed the Company to file conforming tariff pages within fifteen days of the issuance date of Order No. 26,667.

Having reviewed Eversource's August 29, 2022, letter related to the DCA compliance Tariff, and the arguments presented therein, we wish to clarify our directives in Order No. 26,667 by concurring that a deadline for implementing the DCA Tariff effective date of December 15, 2022, is reasonable. To that end and to ensure clarity and tariff compliance with respect to this Order, Order No. 26,690, we deem the August 29 and September 19 compliance Tariff filings by Eversource to be withdrawn. We modify Order No. 26,667 on our own motion accordingly and order Eversource to re-file its DCA compliance Tariff with an effective date of December 15, 2022 and for references to Order No. 26,667 in the tariff compliance pages be updated to include Order No. 26,690 within fifteen (15) days of the date of this order.

**Based upon the foregoing, it is hereby**

**ORDERED**, that the Moving Parties' Motion for Rehearing of Order No. 26,667 is GRANTED, with a hearing to be held at the Commission's offices located at 21 S. Fruit Street, Suite 10, Concord, New Hampshire on October 24, 2022, at 10:00 a.m. Two hours shall be allotted for this rehearing; and it is

**FURTHER ORDERED**, that Order No. 26,667 is modified to incorporate a DCA Tariff effective date of December 15, 2022, instead of the September 1, 2022 effective date; and it is

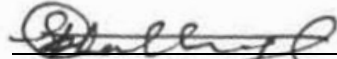
**FURTHER ORDERED**, that Eversource's compliance Tariff filings of August 29, 2022, and September 19, 2022, are deemed WITHDRAWN; and it is

**FURTHER ORDERED**, that Eversource shall re-file its DCA compliance Tariff filing for Commission review, with an effective date of December 15, 2022, within 15 days of the date of this order, consistent with N.H. Code Admin. Rules, Puc 1603.

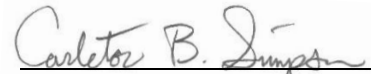
By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of September, 2022.



Daniel C. Goldner  
Chairman



Pradip K. Chattopadhyay  
Commissioner



Carleton B. Simpson  
Commissioner

## Service List - Docket Related

Docket#: 21-078

Printed: 9/28/2022

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