

**Public Service of New Hampshire d/b/a Eversource Energy**  
**Docket No. DE 21-117**

**Date Request Received: 07/22/2021**

**Request No. RR 1-001**

**Request from: Department of Energy**

**Date of Response: 07/28/2021**

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**Witness: Erica L. Menard**

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**Request:**

Please provide information and some detail about the Lempster PPA.

**Response:**

The contract between Lempster Wind LLC (“Lempster”) (a wholly owned subsidiary of Iberdrola Renewable Energies, USA, Ltd.) and Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource”) was entered into in 2008 and presented to the Commission for approval in Docket No. DE 08-077. At that time, Eversource sought approval of two agreements: a 15-year Power Purchase Agreement (“PPA”) for the purchase of energy and capacity from Lempster by Eversource; and a 15-year Renewable Energy Certificates (“REC”) purchase agreement where Eversource would purchase RECs from Lempster to satisfy Eversource’s obligations under the Renewable Portfolio Standard (“RPS”) law that had been enacted in 2007 – see 2007 NH Laws 26, now codified in RSA Chapter 362-F. The project was also covered by a FERC-jurisdictional resale agreement between Eversource and the New Hampshire Electric Cooperative (“NHEC”) whereby Eversource would purchase all of the output from Lempster and resell a portion of that output to NHEC.

On May 1, 2009, the Commission issued Order No. 24,965 approving the agreements. As noted in that order:

With the enactment of RSA 362-F, the Legislature created new obligations for providers of electricity to obtain and retire renewable energy certificates from various renewable energy sources in amounts representing certain percentages of each supplier’s total megawatt-hours of electricity provided to its customers in a given year. The agreements at issue in this proceeding are part of PSNH’s efforts to meet the Class I percentage requirements set forth in RSA 362-F:3 through the use of purchased power agreements in accordance with RSA 362-F:9.

Order No. 24,965 at 15. Accordingly, as the Commission noted, the purpose of the contracts was to fulfill Eversource’s obligations under the RPS law. With approval of the PPA, the energy and capacity costs relating to the PPA were proposed to be passed to Eversource’s New Hampshire customers through the Default Energy Service (“ES”) rate. Those energy prices paid under the contract were indexed to the ISO-New England Energy Price, with a price floor built in, while the capacity prices were indexed to Lempster’s capacity obligation at ISO-New England. Also, with approval of the REC agreement, Eversource would purchase the RECs from Lempster at specified price points based upon the then-existing understanding of the supply and demand for Class I RECs and the applicable Alternative Compliance Payment (“ACP”) obligations (Eversource notes that the New Hampshire General Court has modified the required levels of REC purchases and/or the ACP levels at least four times since 2007). Those REC costs were likewise proposed to be included in the ES rate. While there was no need for

“pre-approval” from the Commission for Eversource to enter the agreements, Eversource did require approval of the agreements before the costs could be recovered through rates.

In approving the contracts, the Commission stated:

As Staff highlights in its testimony, RSA 362-F:9, II requires the Commission to find that the proposal is, on balance, substantially consistent with the above factors. Accordingly, we must consider both the purchased power agreement and the REC option agreement in determining whether the proposed agreements are in the public interest. We have considered those factors along with the evidence in the record and conclude that approval of the purchased power agreement and the REC option agreement is in the public interest.

Order No. 24,965 at 16. The Commission’s order was initially appealed to the New Hampshire Supreme Court, but that appeal was subsequently withdrawn. The agreements have remained in place since that time. Thus, cost recovery for the Lempster contracts has been set in a final and unappealable order since May 2009. With respect to the potential for above-market payments resulting from the Lempster contracts, the Commission received testimony on that issue for various parties, including its own Staff. In its order, the Commission reviewed the testimony and information and with knowledge of the potential for above-market purchases concluded “we find that the two multi-year agreements regarding power, capacity and RECs between PSNH and Lempster Wind are consistent with the factors set forth in RSA 362-F:9, II and are in the public interest.” *Id.* at 19.

At the time Eversource divested its generation assets, specific cost recovery of the Lempster contract costs was accounted for in that process. The June 10, 2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement (the “Agreement”), which was amended on January 26, 2016, and which was filed in Docket No. DE 14-238 and approved by Order No. 25,920 (July 1, 2016), had numerous provisions covering the treatment of PPA contracts such as the one with Lempster. The parties to the Agreement – which included: the Office of Energy and Planning (later the Office of Strategic Initiatives and now part of the Department of Energy), Designated Advocate Staff of the New Hampshire Public Utilities Commission, the Office of Consumer Advocate, New Hampshire District 3 Senator Jeb Bradley, New Hampshire District 15 Senator Dan Feltes, the City of Berlin, New Hampshire, Local No. 1837 of the International Brotherhood of Electrical Workers, the Conservation Law Foundation, the Retail Energy Supply Association, TransCanada Power Marketing Ltd., TransCanada Hydro Northeast Inc., the New Hampshire Sustainable Energy Association d/b/a NH CleanTech Council, Public Service Company of New Hampshire, and Eversource Energy – agreed that the costs of the PPAs held by Eversource, including the agreements relating to Lempster, would be removed from the ES rate and would now be handled through the Stranded Cost Recovery Charge (“SCRC”).

More specifically, the PPAs, which were defined to include the contracts with Lempster, were discussed in the Agreement at lines 199-200 where it provides that certain costs would qualify as stranded costs including “all over-market or under-market costs related to the PPAs and IPPs”. The Agreement further provides:

The net of prudently incurred ongoing expenses and revenue requirements (including, *inter alia*, decommissioning, retirement, and environmental costs or liabilities) for any generating unit, entitlement or obligation that has not been sold as part of the asset divestiture process and **all over-market or under-market costs related to IPPs and the PPAs**, employee protection-related costs, and property tax stabilization payments **will be treated as stranded costs to be fully recovered through the SCRC.**

Agreement at lines 227-232 (italics in original)(bold emphasis added). Additionally, the Agreement provides “The Part 2 amount to be recovered through the SCRC each month will be the expenses

incurred by PSNH for the items listed above, less associated revenues and the revenue from the sale of IPP and PPA entitlements in the wholesale market.” Agreement at lines 280-283. While the Agreement specified the treatment of the costs (whether above or below market), it also provided that Eversource would not divest the contracts themselves. Specifically, it provides “PSNH shall retain PPAs and sell the energy and capacity from those agreements into the market, with the difference between the contract costs and the market revenues associated with the PPAs’ energy and capacity to be recovered through the SCRC. RECs from such PPAs will be managed prudently to benefit customers.” Agreement at lines 566-569.

The execution of the Agreement was supported by the enactment of statutory changes, including to RSA Chapter 374-F and RSA Chapter 362-B, to assure the proper allocation and recovery of stranded costs, including those pertaining to Lempster.

In divesting its generating assets and transitioning to a competitive procurement of ES, in 2017 Eversource did what the Agreement specified and shifted the costs of the Lempster contracts into the SCRC. In the November 27, 2017 settlement in Docket No. DE 17-113, which was approved in Order No. 26,092 (December 29, 2017), all costs of the PPAs, including for Lempster, were removed from the ES rate and included in the SCRC as contemplated by the Agreement, effective on April 1, 2018. The Lempster contracts have been included in Eversource SCRC filings since that time consistent with the Agreement (and its associated statutory changes), as well as Commission Order Nos. 24,965, 25,920 and 26,092.

Accordingly, the Lempster contracts were designed to allow Eversource to meet its RPS obligations as well as to encourage and support renewable energy development in New Hampshire. The costs of the Lempster contracts were approved to be recovered through Eversource’s rates as consistent with the public interest in 2009 and have been recovered in rates since that time. While the precise means of recovery has shifted consistent with the Agreement among numerous stakeholders, in the end, the costs are the same as those reviewed and approved by the Commission in 2009.