

**STATE OF NEW HAMPSHIRE**  
**before the**  
**PUBLIC UTILITIES COMMISSION**

Public Service Company of New Hampshire d/b/a Eversource Energy

**DOCKET NO. DE 22-021**  
2022 Energy Service Solicitation

**MOTION FOR AMENDMENT TO DEFAULT ENERGY SERVICE PROCUREMENT  
PROCESS AND PROCEDURAL SCHEDULE**

Pursuant to N.H. Code of Administrative Rules Puc 203.07, Order No. 26,029, and RSA 374-F:3,V(e), Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource” or the “Company”) respectfully petitions the New Hampshire Public Utilities Commission (“Commission”) for an amendment to its existing default energy service procurement process to allow the Company to purchase electric supply for its default-service load directly from the market in accordance with market rules and processes established by ISO-New England (“ISO-NE”) for load-serving entities (“LSEs”). If allowed by the Commission, this “market-based procurement” or “self-supply” option would be utilized by Eversource only in circumstances of a full or partial failure of the normal request for proposal (“RFP”) solicitation for default energy service supply.

In addition, Eversource requests that the Commission modify the procedural schedule to accommodate a presentation of the RFP bids to the Commission and parties to the docket for review and approval. This request for an addition to the procedural schedule is rooted in a deep concern for the risk associated with procuring adequate and reasonably priced electric supply to meet the default-service load requirements of Eversource’s customers. This procurement risk is arising due to exigent circumstances existing in the wholesale electric supply marketplace operated

by ISO-NE, calling into question whether there is currently a functioning competitive energy market.

In light of existing market conditions, it is necessary for the Commission to consider taking remedial actions to mitigate supply and pricing risks for Eversource's electric customers. This remedial action would be accomplished by: (1) modifying the Commission's established default-service procurement regimen to allow Eversource to undertake its own market-based procurements of electric supply as allowed by ISO-NE market rules for LSEs under certain circumstances; and (2) instituting a procedural sequence that prioritizes the use of competitive solicitations; provides Eversource with productive input to make time-sensitive procurement decisions that will ultimately have to be approved by the Commission (without reasonable alternatives); and assures that adequate electric supply is available for default-service customers at market-based pricing over the service period February 1, 2023 through July 31, 2023. These remedial actions will protect the interests of customers while remaining consistent with the principles of the competitive market design, as enshrined in New Hampshire's Electric Restructuring Act.

To support the Company's request for modifying the Commission's established default-service procurement regimen to allow Eversource to undertake its own market-based procurements of electric supply, Eversource is presenting the Joint Testimony of James R. Shuckerow, Director of Electric Supply for Eversource Energy Service Company ("ESC") and Parker Littlehale, Manager of Wholesale Electric Supply for ESC, providing factual information on the process that would be utilized to procure sufficient default-service supply to meet the Company's default-service load requirements in the service period, February 1, 2023 through July 31, 2023.

In support of this motion, Eversource states the following:

## **Modification of Default-Service Procurement Process**

1. The Company's existing procurement process was established in Docket No. DE 17-113 (Order No. 26,029, dated December 29, 2017) (the "Order"). Specifically, Docket No. DE 17-113 addressed: (1) the Company's practice for procuring and supplying energy service to customers; (2) the method for setting energy service rates; (3) the proposed method for reconciliation of any over- or under-collections; and (4) the tariff amendments needed to implement the procurement and supply framework for effect on January 1, 2018 (Order at 2). The docket was resolved by a settlement reached by and among the Staff of the New Hampshire Public Utilities Commission (now the Staff of the Department of Energy or "DOE"), the Office of the Consumer Advocate ("OCA"), Exelon Generation Company, LLC, and EnerNOC, Inc. (the "Settlement Agreement").

2. Among other elements, the procurement framework approved by the Commission in Docket No. DE 17-113 requires that the Company shall undertake "the solicitation of power requirements by issuing an RFP to the competitive market for full-requirements power supply for customers who do not take energy service from a competitive supplier" (Order at 15). In approving the Settlement Agreement and associated procurement process in that docket, the Commission noted that the "process is expected to result in market prices, and thus will promote choice for customers who can select an electric service product from a competitive supplier, or default energy service offered by Eversource" (*id.*).

3. The Settlement Agreement and the Order have the force and effect of law. To that end, neither the procurement process established in the Settlement Agreement, nor the terms of the Commission's approval of the Settlement Agreement allow for Eversource's direct procurement of default-service supply from the market rather than undertaking procurement through use of a

“sealed bid RFP.” To the contrary, the Settlement Agreement states that “any party may, in the future, petition the Commission to amend the manner of [energy service] procurement and supply should circumstances warrant a change and Staff, the OCA and Eversource agree to participate in such a docket. Eversource agrees to continue to evaluate procurement methods *other than sealed bid RFP*” (Settlement Agreement at Section II.C, at 5)(emphasis added).

4. As stated in Section II.C of the Settlement Agreement, the plain terms of the Settlement Agreement contemplate that there may be a “procurement method” other than a “sealed bid RFP” that would be acceptable under certain circumstances and, to the extent that a different procurement method may be warranted, Eversource may “petition the Commission to amend the manner of [energy service] procurement and supply.” Accordingly, for Eversource to avail itself of the ISO-NE procedures for market-based procurement or “self-supply” rather than third-party supply, Eversource requires an amendment to the procurement method established by Settlement Agreement and the Order in Docket No. DE 17-113.

5. In the Order, the Commission approved the Settlement Agreement and the “sealed bid RFP” process contemplated therein on the basis that it met the requirements of the Electric Restructuring Act (RSA 374-F) because “[t]he *process is expected to result in market prices, and thus will promote choice for customers* who can select an electric service product from a competitive supplier, or default energy service offered by Eversource” (Order at 15, emphasis added). Under current market conditions, restricting the options that Eversource has to fulfill load requirements for default-service supply to a “sealed bid” received as part of a competitive solicitation (RFP process) may no longer result in “market prices” for customers. Moreover, the Company may not receive sufficient bids at any price to meet the default service load requirements

of New Hampshire electric customers, as described in the accompanying testimony of Company witnesses Shuckerow and Littlehale.

6. New Hampshire RSA 374-F:3,V(a) requires: “A utility providing distribution services must have an obligation to connect all customers in its service territory to the distribution system. A restructured electric utility industry should provide adequate safeguards to assure universal service.” However, although the utility is obligated to “connect all customers” to the distribution system, it acts as a provider of default service in relation to electric supply and is not the only default service provider that may do so. New Hampshire law states that “[d]efault service *should* be procured through the competitive market and *may* be administered by independent third parties” (RSA 374:F,V(c)(emphasis added).

8. RSA 374-F:3 does not delineate specific obligations of distribution utilities in relation to the safe and reliable provision of default-service supply, nor does it set parameters regarding the manner in which distribution companies will procure and price default-service supply for their customers. Therefore, the manner in which distribution companies procure and price default-service supply is under the authority of the Commission. This is supported by the fact that there are two, overarching statutory provisions delegating authority to the Commission to define the obligations of distribution companies in relation to default-service supply, as follows:

- a. RSA 374-F:3,V(d) “The commission should establish transition and default service *appropriate to the particular circumstances of each jurisdictional utility*” (emphasis added).
- b. RSA 374-F:3,V(e) “the commission may approve alternative means of providing transition or default services which are designed to minimize customer risk, not unduly harm the development of competitive markets,

and mitigate against price volatility without creating new deferred costs, if the commission determines such means to be in the public interest.”

### **Instituting a Pre-Designated Procedural Sequence**

9. Current conditions in the wholesale market for energy supply are creating circumstances where the competitive solicitations through an RFP process are not a reliable mechanism in terms of producing competitive bids that would adequately cover the Company’s default-service load at price that is reasonably correlated to prevailing market prices. In New Hampshire, Eversource procures 100 percent of the default-service supply through a single, 90-day process established in the Settlement Agreement approved in Docket DE 17-113. Under current market conditions, Eversource needs to have flexibility to conduct market-based procurement where the competitive bids fall short of supplying the full default-service load and/or the price offers put forth in the bids are not reflective of prevailing market prices. Without this flexibility, it is conceivable that insufficient supply and/or supply at an exorbitant price is a resulting circumstance that cannot be cured by the Company through a subsequent RFP process. The Commission’s authorization of “backstop flexibility,” allowing the Company to undertake direct, market-based procurement under certain circumstances is an imperative.

10. The Commission’s approval of this backstop flexibility as an “alternative means” of providing default service will minimize the customer risk associated with a competitive procurement that does not produce bids that adequately cover the Company’s default-service load at price that is reasonably correlated to prevailing market prices, and in any event only be used as a last resort option. Because ISO-NE’s market rules already provide a process for this procurement by the Company, this procurement method will not unduly harm the development of competitive markets. This method will also be effective to mitigate the price volatility associated with the

potential acceptance of price bids that are not market-reflective and will mitigate the potential for the creating of deferred costs associated with out-of-market default-service bids. For these reasons, the Commission should determine that the market-based procurement approach provides highly critical backstop flexibility for default service and is therefore in the public interest.

11. Given the nature of the RFP solicitation requiring acceptance of bids in an exceedingly short time window so that bids can be locked in by the selected competitive supplier in the midst of a highly volatile market environment, the Commission should consider implementing the backstop flexibility of the market-based procurement approach within the context of procedural modifications designed to assure that all relevant inputs are factored into the procurement decision. A proposed timeline is discussed in the testimony of Company witnesses Shuckerow and Littlehale. Specifically, Eversource proposes the following sequence (requested modifications in red):

- November 15, 2022 Eversource filing requesting authorization for direct, market-based procurement under certain circumstances and pre-designated procedural sequence.
- December 2, 2022 Commission issues Procedural Order regarding solicitation process and authorization for direct market-based procurement method in the event of partial or full failure of RFP and adds December 6 confidential technical session to the procedural schedule.
- December 6, 2022 Bids received at 10:00a.m.; analysis assembled by Eversource.
- December 6, 2022 Noticed, confidential technical session conducted at 11-12 p.m. to review bids and bid analysis and to receive input from OCA, DOE and/or PUC, if any. Eversource will share bid pricing, load coverage and analysis to inform consensus guidance. **Consensus will not absolve Eversource of prudent management of procurement process.**
- December 6, 2022 Review and sign-off by Eversource Risk Committee at 1-2:30 p.m.
- December 6, 2022 Acceptance of bids, if any, by 3:00 p.m.

- December 8, 2022 Eversource will file for approval of default service procurement, including request for approval of any contracts executed through the bid-solicitation process and use of market-based procurement through ISO-NE for any portion of load not covered by executed contract, if any. Eversource will include testimony, explanation and supporting documentation to support approval of default service procurements with pricing for February 1, 2023.
- December 15, 2022 Requested Commission decision approving or rejecting the Company's proposed bid selections and/or alternative means.

12. If authorized by the Commission, and depending on the results of the RFP, the Company's filing for Commission review on December 8 may include a proposal for direct, market-based procurement by Eversource for New Hampshire default service customers under circumstances where the RFP has failed to produce adequate supply at a market-based cost. Authorization for this "alternative means" would be granted in the December 2, 2022 Procedural Order of the Commission so that the Company has this tool available to it during the five-hour selection process (10:00 a.m. to 3:00 p.m. on December 6). Eversource's decision to rely on direct, market-based procurement for some or all of the default service load requirements following the receipt of bids would be subject to approval of the Commission as part of the December 8 filing.

13. In the event that the Commission decides to reject the Company's December 8 filing, the only remaining option will be for the Commission to direct the Company to undertake a second RFP process prior to the implementation of direct, market-based procurement by Eversource as an "alternative means" of serving default service customers. Eversource's experience indicates that a second solicitation will likely be unsuccessful and may create risk for New Hampshire's default service customers due to extended uncertainty of the sourcing of default service. More importantly, the rejection of Eversource's December 8 filing will almost certainly have a lasting detrimental effect on the future of the competitive New Hampshire energy market—such a rejection would be unprecedented and serve as a deterrent for competitive suppliers to bid



in RFPs that follow. However, this option is available should the Commission determine that circumstances warrant this approach.

14. Eversource's request for a confidential technical session on bid day is designed for the primary purpose of providing a forum for careful deliberation in extraordinary circumstances. Based on the bids received, the options for default service supply may be limited; the options may not be sufficient to cover the full load requirements and may not be reflective of prevailing market prices. Consultation and discussion on December 6 at 11-12 p.m. would allow the DOE, OCA and the Commission, should each choose to participate, to provide input to Eversource's decision-making process at a point when there may be options for customers that require policy calls in regard to how market-reflective Default Energy Service should be, balanced against the interests of Default Service Customers.

15. Eversource has the experience and expertise to evaluate the bids and will, no matter the circumstances, make a decision using its best business judgment for presentation to the Commission that balances the need to obtain adequate default-service supply with the objective of obtaining a market-reflective cost. However, once the decisions are made by 3 p.m. on bid day, further options may not exist for customers meaning that, for all intents and purposes, the decision made by 3 p.m. that day is likely to be decisive for customers, notwithstanding any future filing for the Commission's review and approval. Under these circumstances, it may be important for the OCA, DOE and the Commission to weigh in to provide input on New Hampshire policy preferences and risk tolerances at the point at which the decision has to be made.

16. The Company's requested process is designed to enable the best outcome for New Hampshire customers by incorporating as much input as possible. However, if the Commission

were to decline to add the confidential technical session on December 6, all other pre-designated steps could stay in place and the Company will proceed accordingly.


WHEREFORE, Eversource respectfully requests that the Commission:

- A. Issue a procedural order that modifies Eversource's established default-service procurement regimen to allow Eversource to undertake its own market-based procurements of electric supply as allowed by ISO-NE market rules under certain circumstances;
- B. Institute a procedural sequence that prioritizes the use of competitive solicitations, while providing the opportunity for productive input by adding a confidential technical session to the procedural schedule to make time-sensitive procurement decisions that will ultimately have to be approved by the Commission and assures that adequate electric supply is available for default-service customers at market-based pricing over the service period February 1, 2023 through July 31, 2023; and
- C. Grant such additional relief as the Commission deems appropriate.

Respectfully submitted,

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

Date: November 15, 2022

  
By: \_\_\_\_\_  
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**CERTIFICATE OF SERVICE**

I hereby certify that, on the date written below, I caused the attached to be served pursuant to N.H. Code Admin. Rule Puc 203.11.



Date: November 15, 2022

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Jessica A. Chiavara