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Via Electronic Mail Only

Daniel C. Goldner, Chairman
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

RE: Docket No. DE 23-091, Public Service Company of New Hampshire, d/b/a Eversource Energy, Petition for Adjustment to Stranded Cost Recovery Charge
Docket No. DE 24-032, Public Service Company of New Hampshire, d/b/a Eversource Energy, Burgess Plant Bankruptcy Settlement Review Pursuant to RSA 365:28 and Allied Statutes
Update Regarding Bankruptcy Court PPA Rejection and Settlement Approval

Dear Chairman Goldner:

On behalf of Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource” or the “Company”), I write to update the Commission on the status of certain proceedings before the United States Bankruptcy Court for the District of Delaware initiated by debtors Berlin Station, LLC and Burgess BioPower, LLC (collectively, “Burgess”). This update is being filed both in the current Stranded Cost Recovery Charge (“SCRC”) proceeding, Docket No. DE 23-091, and in the new Docket No. DE 24-032.

On February 21, 2024, the Bankruptcy Court granted Burgess’ motion to reject the PPA and related option agreement,¹ without specifying the effective date of rejection of the PPA. In order to (i) specify the effective date of PPA termination, (ii) facilitate the transition from the Company to a Burgess affiliate or designee of lead market participant (“LMP”) status in the ISO New England market settlement system, and (iii) resolve related motions, claims, and actions without further litigation between Eversource, Burgess, and secured lenders in the bankruptcy proceedings, the parties entered into a Settlement Agreement (the “Settlement”). The Settlement enables the Company to preserve the nearly \$10 million Eversource withheld from payments for energy, capacity, and renewable energy certificates from Burgess invoices for December, and payments for energy and capacity to be withheld from the invoices for January and for February 1 through February 8 (i.e., the period prior to the bankruptcy filing).

The Settlement was filed for approval by the Bankruptcy Court and, during a hearing held on Tuesday, February 27, 2024, the Court approved the Settlement. Copies of the

¹ *Motion of the Debtors for Entry of an Order (I) Authorizing the Debtors To Reject the Power Purchase Agreement and Option Agreement With Public Service Company of New Hampshire (d/b/a Eversource Energy) Nunc Pro Tunc to the Petition Date and (II) Granting Related Relief* (the “PPA Rejection Motion”). The “PPA” is the Amended and Restated Power Purchase Agreement, as amended, between the Company and Berlin Station, LLC.

Settlement Agreement, as approved by the Court, and the Court's approval order are enclosed with this filing. In addition, the Company is enclosing a brief summary of the Settlement that describes in greater detail the background and context for the agreement, the specific terms included in the Settlement, and the net benefits to Eversource customers secured through the Settlement. Those net customer benefits are substantial and would not have been realized in the absence of the Settlement.

The Company anticipates that the Commission and parties in the SCRC docket will have a number of questions regarding the Settlement and its potential impacts on customer rates. Eversource respectfully requests that the Commission schedule a further hearing to address these developments in the context of the SCRC proceeding, to be held in early April 2024. By that time, many key terms of the Settlement will have been implemented and the various payments and netting provided for will have occurred. As a result, many actual rather than estimated amounts will be known at that time, and the hearing may focus on those actual results and their impact on the Company's SCRC rates. The Company acknowledges that the hearing to be held in Docket No. DE 24-032 has been scheduled for March 13, 2024.

Finally, at the close of the February 21st hearing in the SCRC proceeding, the Chairman indicated that the Commission might issue an order directing legal briefs to be submitted regarding the question whether a disallowance of full recovery of above-market costs under the PPA would be possible. The Company respectfully requests that the Office of Consumer Advocate, the chief proponent of any such disallowance, be required to submit an initial brief to which the Company would then respond through a reply brief. That order of briefing would be most efficient and equitable under the circumstances, in light of the Commission's Order No. 26,705 (October 14, 2022) in Docket No. DE 22-050 and Order No. 26,333 (February 18, 2020) in Docket No. DE 19-142 (approving the Company's recovery of all costs of the PPA from customers through a non-bypassable rate mechanism).

Consistent with current Commission policy, this filing is being made electronically only and paper copies will not follow. If you should have any questions, please contact me.

Sincerely,

/s/ David K. Wiesner

David K. Wiesner
Senior Counsel

Enclosures

cc: DE 23-091 and DE 24-032 Service Lists