

STATE OF NEW HAMPSHIRE

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March 11, 2024

Daniel C. Goldner, Chairman  
New Hampshire Public Utilities Commission  
21 S. Fruit Street, Suite 10  
Concord, New Hampshire 03301

Re: 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

Dear Chairman Goldner:

Please treat this letter as the response of the Office of the Consumer Advocate to the Commission's request that the parties file a statement of position on or before March 11, 2024, regarding the Burgess Power Plant Settlement.

The ineluctable truth is that the Power Purchase Agreement ("PPA") between Burgess and Eversource was a terrible deal for residential customers. Since Docket No. DE 10-195, the docket where the PPA between Burgess and Eversource was first approved by the Public Utilities Commission, the OCA has stated that the purported benefits of the Cumulative Reduction mechanism were illusory at best. Residential customers were forced to purchase energy at above-market energy costs per the PPA without any assurance or legal protection that the now approximate 171 million dollars spent would be secured and otherwise returned to customers in the event of a breach, bankruptcy, or termination of the PPA. And because the Delaware Bankruptcy Court authorized the Debtor's to Reject the PPA<sup>1</sup>, that 171 million dollars evaporates because the only mechanism in place for that money to be refunded to residential customers was through the Cumulative Reduction mechanism within the PPA.

In fact, such concern was similarly raised by former Consumer Advocate Meredith Hatfield who, in 2011, directly questioned why there was no security for, specifically, the excess cumulative reduction amount — to which Eversource replied stating such a concern was unfounded. PSNH Letter Addressing OCA's Concerns, at 2-3, dated June 6, 2011 (tab 148) in Docket No. DE 10-195.

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<sup>1</sup> The Bankruptcy Court for the District of Delaware issued [this order](#) authorizing the debtors to reject the PPA, at PDF p. 22 - 24 of 108.

But what further exacerbates the issue of recovery is that in that same docket, Eversource's president made an auspicious claim, via written testimony, to the then Commission that the PPA was in the best interest of Eversource and its customers and should be approved:

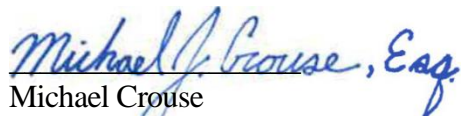
Considerable thought over more than two years went into developing this unique PPA and I truly believe that it is in the best interests of PSNH and our customers over its term.

Testimony of Gary Long, at Bates 18, dated July 26, 2010 (tab 1) in Docket No. DE 10-195. And yet to the contrary, residential customers are now left with all the cost while Eversource is made whole via the Stranded Cost Recovery Charge. In furtherance of this point, with the Delaware Bankruptcy Court order approving Rejection of the PPA, residential customers will instead stop hemorrhaging a terrific amount of money by no longer being required to pay above-market energy costs over the remaining life of the PPA.

Currently, Eversource's settlement agreement provides residential customers an estimated short-term benefit of approximately 10 million dollars. Juxtaposing the settlement recovery against the approximate remaining 161 million dollars hardly seems like a victory for Eversource's customers. But given the unfortunate circumstances described above, and after extensive review, the OCA does not have a better alternative to recommend to the Commission — the ineluctable truth remains that the PPA has simply been a terrible deal for residential customers.

The OCA is appreciative of the Commission's concern that residential customers have been left holding the bag, and the line of inquiries the Commission has made to seek potential legal recourse considering the circumstances described above. We look forward to participating in this matter.

Sincerely,

  
Michael Crouse  
Staff Attorney