

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

DOCKET NO. DE 24-070

Electric Distribution Utilities

Request for Change in Distribution Rates

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE d/b/a EVERSOURCE ENERGY**  
**O.JECTION AND MOTION TO STRIKE AND EXCLUDE FROM THE PROCEEDING**  
**THE DIRECT TESTIMONY OF THE LARGE CUSTOMER CONSORTIUM**

Public Service Company of New Hampshire d/b/a Eversource Energy (“PSNH” or the “Company”) hereby submits this motion pursuant to Puc 203.07(b) and (c) to the New Hampshire Public Utilities Commission (“Commission”) to strike certain portions of testimony, pursuant to Puc 204.14(d),<sup>1</sup> filed to this docket by Hancock Lumber Company, Inc., Monadnock Paper Mills Inc., Pike Industries Inc., and the University System of New Hampshire (collectively, the “Large Customer Consortium” or “LCC”) pertaining to irrelevant issues immaterial to a determination in this docket that would ultimately prejudice the Company and other stakeholders, and infringe on the orderly and efficient resolution of the proceeding. In support of this motion, the Company states the following:

1. On June 11, 2024, the Company filed a Request for Change in Distribution Rates with the Commission. On June 28, 2024, the Commission issued an Order of Notice, describing the issues defining the scope of this proceeding as follows:

As provided in Order No. 27,029 issued on June 28, 2024 which commenced these proceedings, the noticed issues are: whether the proposed adjusted rates are just and reasonable, as required by RSA 374:2, and RSA 378:5 and RSA 378:7; whether the proposed temporary and permanent rate increases will yield a just and reasonable rate of return on the prudent cost of plant, equipment and capital improvements

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<sup>1</sup> On January 23, 2025, the Commission adopted new rules. The previous version of the rules also allowed for objections to testimony pursuant to Puc 203.23(d).

used and useful in Eversource's provision of service to the public less accrued depreciation, as required by RSA 378:27 and RSA 378:28; whether the proposed performance based ratemaking/PBR, DSP, and other innovations are alternative forms of regulation and, if so, whether they meet the standards for approval in N.H. Code Admin. Rules Puc PART 206 and RSA 374:3-a; whether the ratemaking methodologies proposed by Eversource for its PBR plan and other rate proposals are accurate, internally consistent, and consistent with all relevant law, regulations, and Commission Orders; whether the burden of proof under RSA 378:8 is met for each rate and ratemaking methodology change proposed; and whether the DSP comports with the standards of RSA Chapter 374-G, 374-F, and other applicable law. Order No. 27,029 at 5-6.

Order 27,029 at 5-6.

2. On January 24, 2025, LCC filed the Direct Testimony of Eben Perkins and Tarik Cetin (“LCC Testimony”) which contains arguments solely pertaining to the issue of transmission rates, which is squarely outside the scope of this proceeding as noticed by the Commission. Order 27,029 does not list transmission rates as a relevant or contested issue in this proceeding. Because the whole of the LCC testimony is devoted to issues outside the noticed scope of this docket, the Company requests that the LCC Testimony in its entirety be stricken from the record that will be entered by the parties at the hearings in this proceeding.
3. LCC attempts to frame the Company’s Request for Change in Distribution Rates as PSNH’s “general rate case” which is a misleading and inaccurate description of the current proceeding. (*See* LCC Direct Testimony at 12). The Company’s petition to change distribution rates does not create a forum for stakeholders to request modifications to non-distribution rates or the creation of new transmission rates. LCC attempts to justify their proposal to include transmission rates in the scope of this proceeding by asserting that Liberty Utilities (Granite State Electric) Corp.’s settlement agreement in Docket No. DE 23-039 included a coincident peak transmission (“CPT”) option as part of the

settlement agreement for justification. (*Id.* at 12-13). The settlement agreement in a different utility's rate case is not persuasive to evaluating the scope of this distribution rate review proceeding and whether it includes the consideration of new or modified transmission rates. LCC's references to other proceedings outside of New Hampshire is similarly unavailing as to the proper scope of this proceeding nor does it justify raising irrelevant and material issues. LCC also states that in Docket No. DE 06-028, the Commission approved a settlement agreement to change the transmission rate for Rate B customers although the rate was not included in the Company's initial filing in that proceeding. LCC, however, fails to note, however, that the very focus and scope of Docket No. DE 06-028 was the Company's proposal to change its transmission rates, which makes Docket No. DE 06-028 unanalogous to this proceeding. (*See* Order No. 24,750, at 1-2).

4. LCC asserts that "it is puzzling to consider what PSNH believes would be an appropriate venue for considering potential changes to its transmission rate design." (*Id.* at 14). The Company disagrees that determining an appropriate venue is puzzling, and one need not look far for an answer to what an appropriate venue would be. In fact, during the January 7, 2025 technical session,<sup>2</sup> PSNH made it clear that the appropriate venue for considering potential changes to transmission rates would be for LCC to file a petition with the Commission with its proposals to initiate a separate proceeding. By filing such a petition, LCC would bear the burden to demonstrate why the existing transmission rates are not consistent with the law and Commission precedent, and that its proposed rates are just, reasonable and in the public interest, and therefore should be adopted. The Company's position on the issue of scope has been consistent throughout this proceeding and the

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<sup>2</sup> LCC did not raise its proposed transmission rates during that or any other party-held technical session.

Company objected to various data requests propounded by LCC that were related to the exploration of transmission rates. LCC made no further attempt to obtain the information to which the Company objected during discovery.

5. In the context of administrative proceedings, the Commission has considered due process to be a “flexible concept” and previously used a three-part test for determining whether a Company’s due process rights would be violated. First, the Company must have a private interest that will be affected by the official action; second, there must be a risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. (Docket No. 04-048 Order 24,667 (September 22, 2006) (citing *Mathews v. Eldridge*, 424 U.S. 319, 334-35 (1976) (citations omitted); see also *Appeal of Office of Consumer Advocate*, 148 N.H. 134, 138 (2002) (applying same standard in context of both New Hampshire and federal constitutions)).
6. The Company’s private interest in this proceeding is preserving its statutory and due process rights as petitioner to obtain a final order to increase its distribution rates, providing the Company with adequate revenue to ensure safe and reliable operations of its distribution system for the benefit of its customers. As for the second factor, if the Commission does not strike the LCC Testimony and prevent it from being entered into the record at hearings in this docket, it would deprive the Company of an efficient and orderly conduct of this proceeding by admitting irrelevant and immaterial evidence, which Puc 204.14(d) requires the Commission to exclude either by its own determination or by

objection of a party. The LCC testimony would offer no probative value toward reaching a determination in this proceeding and introduce unnoticed issues which will prejudice and disrupt the resolution of this docket, contrary to RSA 541-A:32, II. Third, by allowing the LCC Testimony dedicated entirely to their newly proposed transmission rates to be entered as an exhibit at hearing, the Commission would create an administrative burden on the parties to this proceeding by inappropriately expanding the scope of the docket, which could potentially delay a final Commission order on the Company's rate proposal, which would violate the Company's statutory right to a final order pursuant to RSA 378:6, I(a).

7. The Commission excluded evidence in Order 24,667, and for similar reasons. In Docket No. DW 04-048 the Commission excluded testimony from an intervening party because the intervening party sought to undermine the proceeding by presenting evidence that was immaterial, irrelevant, and confused the issues and with which, if permitted to remain in the proceeding, would have prejudiced the petitioner's due process rights. (*See* Order 24,667). While the Commission has a long-standing rule under Puc 204.14(b)<sup>3</sup> that testimony does not become part of the evidentiary record until hearings, Order No. 24,667 allows the Commission to strike testimony in advance of hearing if the aggrieved party makes a showing that the party's ability to prepare for hearings would be unfairly compromised. (*Id.*) Here, the whole of LCC's testimony will undermine the Company's ability to adjudicate its petition for rate relief and proposal for performance-based ratemaking by introducing unnoticed issues at a very late stage in this time-sensitive proceeding, which will disrupt, delay, and otherwise confuse the issues that must be decided by the Commission to address the petitioner's request for relief.

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<sup>3</sup> The Commission previously recognized this rule as Puc 203.23(b) prior to the adoption of new rules on January 23,2025.

8. It should be noted that LCC will not be prejudiced by being required to file its own petition with its proposals and request for relief to be considered in a dedicated docket. Rather, requiring LCC to do so would put LCC on even footing with the Company, as each party has distinct proposals and each should bear the burden of demonstrating that those proposals are just, reasonable and in the public interest. By LCC inserting its proposals in this docket only amounts to the disruption of this proceeding and impairment of the Company's due process rights and request for relief when LCC has more suitable options available to it for having its proposals considered.
9. The Commission found in its January 17, 2025, Procedural Order Re: Department of Energy's Motion to Modify Procedural Schedule ("DOE Procedural Order") that "the petitioner (Eversource) has the burden of proof and its interest in adhering to the previously approved procedural schedule is persuasive." (DOE Procedural Order, at 3 (citing *Appeal of Morin*, 140 N.H. 515,517)). As the DOE Procedural Order notes, Eversource has relied on the schedule agreed to by the parties and the Commission for settlement, planning litigation, and managing workflow. (*Id.*). If LCC's testimony are not excluded from the record, it will upend these proceedings by opening the scope to matters not contemplated by the Company, nor properly noticed through Order No. 27,029. Therefore, it would unfairly compromise and prejudice these proceedings and could frustrate the Commission's ability to timely rule on the Company's distribution rates which by law must take effect by August 1, 2025.
10. Finally, while hearings in this docket are still some weeks off, the Commission has previously found that motions to strike testimony in advance of hearing should be taken "as requests that [the Commission] rein in testimony and discovery on issues clearly

outside the scope of this docket.” (Order No. 25,640 at 6 (March 26, 2014)). The Commission further found that “*If the testimony is not relevant, it makes no sense to allow that testimony to stand and require further discovery on issues we have no intention of addressing at the hearing.*” (*Id.* emphasis added). For this reason, the Company’s motion is timely and would ask that the Commission follow the process it outlined in Order No. 25,640 and exclude LCC’s testimony from being considered any further in this docket, as well as being excluded from the record once hearings commence.

WHEREFORE, the Company respectfully requests that this Commission:

- A. Grant the Company’s Objection and Motion to strike and exclude from the proceeding the Direct Testimony of Eben Perkins and Tarik Cetin, and prohibit the same from being admitted to the record of this docket when hearings commence; and
- B. Grant such further relief the Commission deems just and reasonable.

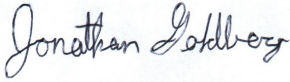
Respectfully submitted,

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

By its Attorneys,



By: \_\_\_\_\_  
Jessica A. Chiavara, Senior Counsel  
Eversource Energy  
780 N Commercial Street  
Manchester, NH 03101  
(603) 634-2972  
[jessica.chiavara@eversource.com](mailto:jessica.chiavara@eversource.com)

By: 

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Jonathan A. Goldberg, Esq.  
Michael B. Hershberg  
Keegan Werlin LLP  
99 High Street, Suite 2900  
Boston, MA 02110  
(617) 951-1400  
[jgoldberg@keeganwerlin.com](mailto:jgoldberg@keeganwerlin.com)  
[mhershberg@keeganwerlin.com](mailto:mhershberg@keeganwerlin.com)

Date: January 30, 2025



Certificate of Service

I hereby certify that on January 30, 2025, a copy of this Motion has been forwarded to the service list for docket DE 24-070.

A handwritten signature in cursive script, appearing to read "Michael B. Hershberg".

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Michael B. Hershberg, Esq.