

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 19-142

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
d/b/a EVERSOURCE ENERGY**

**Rate Recovery of Costs in Excess of the Cumulative Reduction Cap
Under the Power Purchase Agreement with Berlin Station, LLC**

ORDER OF NOTICE

On December 5, 2018, the Commission issued Order No. 26,198 (Order) amending its earlier Order No. 25,213 (April 18, 2011) (Original Order). The Original Order approved, with conditions, a power purchase agreement (PPA) between Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource or the Company) and Laidlaw Berlin BioPower, LLC, now Berlin Station, LLC (Berlin Station). The PPA requires Eversource to purchase electric power, including energy, capacity, and the associated renewable energy certificates, at agreed prices for a 20-year term.

To protect electric customers from paying over-market prices for electric power, the PPA contained a cumulative factor calculated by comparing the contract prices for energy with hourly ISO-New England energy prices. If the PPA prices are higher than market prices, the calculation becomes a cumulative reduction on the purchase price of the facility, known as the cumulative reduction factor (CRF). PPA at 11. Pursuant to the Original Order, a \$100 million cap was imposed on the CRF such that, in the event the accumulated CRF account exceeds \$100 million in any year, the overage paid above the cap would be credited to energy service customers in the following year's energy service rates. Order No. 25,213 at 97.

On June 28, 2018, Governor Sununu signed into law Senate Bill 577, "AN ACT requiring the public utilities commission to revise its order affecting the Burgess BioPower plant

in Berlin, prohibiting the import of certain liquid fuels, and relative to the production of useful thermal energy.” 2018 N.H. Laws, ch. 340 (SB 577). The New Hampshire legislature found that the “continued operation of the Burgess BioPower plant in Berlin is important to the energy infrastructure of the state of New Hampshire and important for the attainment of renewable energy portfolio standard goals of fuel diversity, capacity, and sustainability.” *Id.*

Section 2 of SB 577 directed the Commission to “amend its Order No. 25,213 (Docket 10-195) to suspend the operation of the cap on the cumulative reduction factor as set forth on page 97 of its Order for a period of 3 years from the date the operation of the cap would have otherwise taken effect.” 2018 N.H. Laws, ch. 340:2. As directed by statute, the Commission amended the Original Order to suspend the operation of the cap for three years from the date on which the cumulative amount reaches \$100 million. Order No. 26,198 at 9.

Eversource is required to advise the Commission periodically concerning the balance of the CRF account. At a hearing in Docket No. DE 19-108, the Company confirmed that approximately \$3.5 million in over-market costs accrue to the CRF account each month and that the account had reached \$95.155 million at the end of June 2019. Hearing Transcript of July 19, 2019, at 66. As a result, the Commission is opening this docket to determine the appropriateness of, and the method for, rate recovery of Eversource’s over-market payments to Berlin Station that exceed the \$100 million CRF cap during the 3-year suspension period.

This order of notice and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, will be posted to the Commission’s website at <http://www.puc.nh.gov/Regulatory/Docketbk/2019/19-142.html>.

The filing raises, *inter alia*, issues related to whether, and if so under what rate recovery mechanism, Eversource may recover from ratepayers the over-market costs of electric energy

purchased under the PPA with Berlin Station in excess of the \$100 million cap while operation of the cap is suspended; including any limitations imposed by RSA chapter 374-F and RSA 374:2; RSA 378:7; 2018 N.H. Laws ch. 340 (SB 577); U.S. Const. art. 1, § 10, cl. 1; N.H. Const., pt. 1, art. 23; and N.H. Const., pt. 1, art. 37. Each party has the right to have an attorney represent the party at the party's own expense.

Based upon the foregoing, it is hereby

ORDERED, that a Prehearing Conference, pursuant to N.H. Code Admin. Rules Puc 203.15, be held before the Commission located at 21 S. Fruit St., Suite 10, Concord, New Hampshire on September 24, 2019 at 10:00 am, at which each party will provide a preliminary statement of its position with regard to the petition and any of the issues set forth in N.H. Code Admin. Rules Puc 203.15; and it is

FURTHER ORDERED, that, immediately following the Prehearing Conference, Eversource, the Staff of the Commission, and any Intervenors hold a Technical Session to review the petition; and it is

FURTHER ORDERED, that pursuant to N.H. Code Admin. Rules Puc 203.12, the Executive Director shall notify all persons desiring to be heard at this hearing by publishing a copy of this Order of Notice no later than September 10, 2019, on the Commission's website and by electronic service to the parties to the following Commission Dockets: DE 14-238, and DE 10-195 no later than September 19, 2019; and it is

FURTHER ORDERED, that consistent with N.H. Code Admin. Rules Puc 203.17 and Puc 203.02, any party seeking to intervene in the proceeding shall submit to the Commission seven copies of a Petition to Intervene with copies sent to Eversource and the Office of the Consumer Advocate on or before September 19, 2019, such Petition stating the facts

demonstrating how its rights, duties, privileges, immunities, or other substantial interests may be affected by the proceeding, consistent with N.H. Code Admin. Rules Puc 203.17; and it is

FURTHER ORDERED, that any party objecting to a Petition to Intervene make said Objection on or before September 24, 2019.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of August, 2019.



Debra A. Howland
Executive Director

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the Americans with Disabilities Act Coordinator, NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.

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