

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 22-050

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

**Petition for Approval of Second Amendment to the Power Purchase Agreement
with Berlin Station, LLC**

**Order *Nisi* Approving Amendment
Pursuant to the Terms of SB 271 (2022 N.H. Laws, ch. 275)**

O R D E R N O. 26,705

October 14, 2022

In this order, we approve the second amendment to the power purchase agreement between Eversource and Berlin Station, LLC (Agreement), made pursuant to the legislative directive established by the General Court in 2022 N.H. Laws, ch. 275 (SB 271). This order also finds that Eversource's decision to enter into the second amendment of the Agreement, as consistent with a legislative mandate, was reasonable and in the public interest, and that Eversource shall be allowed to recover all costs of the amended Agreement via a non-bypassable rate mechanism as directed by SB 271.

On August 26, 2022, Public Service Company of New Hampshire d/b/a Eversource (Eversource, or the Company) filed its petition and second amendment to the Company's Agreement with Berlin Station, LLC. This filing was made pursuant to the terms of the Commission's Order No. 26,665 (August 11, 2022), issued in Docket Nos. DE 10-195, and DE 19-142, the predecessor dockets to this instant matter, and the terms of SB 271. Order No. 26,665 outlines the background related to SB 271 and the Agreement between Eversource and Berlin Station, LLC, which owns and operates the Burgess BioPower Plant located in Berlin, New Hampshire, a 75-megawatt facility

that generates electrical power from burning low-grade wood, with the output sold to Eversource to meet a portion of the electrical energy needs of Eversource's default service customers. Order No. 26,665 at 1-2.

The Office of the Consumer Advocate (OCA) filed its letter of participation on August 29, 2022. On September 14, 2022, the Commission issued a procedural order clarifying certain matters relating to records to be made available to the OCA and the New Hampshire Department of Energy (DOE) and requesting that the DOE file its recommendation regarding the second amendment to the Agreement by September 23, 2022. On September 27, 2022, the DOE filed its recommendation, supporting Commission approval of the second amendment proposed by the Company.

Eversource's proposed second amendment relates to Section 6.1.4 of the Agreement. It presents the following language:

Notwithstanding Section 6.1.2 above, beginning with the Operating Year ending on November 30, 2023, if at the end of any Operating Year other than the last Operating Year during the Term, there exists a Cumulative Reduction in excess of One Hundred Million Dollars (\$100,000,000), such excess ("Excess Cumulative Reduction") will be credited against amounts otherwise due for Energy delivered to [the Company] during the subsequent Operating Year until such Excess Cumulative Reduction is eliminated. To effect such credit, in each month during the subsequent Operating Year, one twelfth (1/12th) of the Excess Cumulative Reduction ("Monthly Energy Credit") shall be deducted by [the Company] from the Seller's [Berlin Station, LLC's] invoice, up to the full amount of the payment due to Seller pursuant to Section 6.1.2(a), and any excess over that amount shall carry forward to the following month to the Monthly Energy Credit. If, at the end of the Operating Year subsequent to the year during which there was an Excess Cumulative Reduction, any such amount remains, it shall be deducted by [the Company] from the Seller's invoice in the next Operating Year in the same manner described above. If upon expiration of the Term [the Company] does not purchase the facility [Burgess BioPower Plant], Seller shall pay [the Company] the amount of any Excess Cumulative Reduction.

Eversource contends, and the DOE concurs, that this modification to the Agreement effectuates the intent of SB 271, in that the suspension of the cap on the

cumulative reduction factor relating to the Agreement is to continue for one additional year. This cap was originally established by the Commission in Order No. 25,213 (April 18, 2011), and subsequently modified by Commission Order No. 26,198 (December 5, 2018), and Order No. 26,333 (February 18, 2020), and legislative action through 2018 N.H. Laws, chapter 340 (SB 577). See Order No. 26,333 at 1–4. These changes had the effect of suspending the cap for a three-year period starting on December 1, 2019, and ending on November 30, 2022. It was the intent of SB 271 to extend the suspension of the cap for one additional year, through November 30, 2023. We agree with Eversource and the DOE that the proposed second amendment to the Agreement accomplishes this task, and we will therefore approve it without modification or conditions.

The Company further requests Commission findings that its decision to enter into the second amendment of the Agreement consistent with a legislative mandate was reasonable and in the public interest, and a Commission order that Eversource shall be allowed to recover all costs of the amended Agreement from customers via a non-bypassable rate mechanism. We find that the amended agreement is consistent with SB 271 and grant Eversource's request.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that pursuant to the terms of SB 271, the second amendment to the Agreement between Eversource and Berlin Station, LLC, as delineated above, is APPROVED; and it is

FURTHER ORDERED, that Eversource's decision to enter into the second amendment of the Agreement consistent with a legislative mandate was reasonable and in the public interest; and it is

FURTHER ORDERED, that Eversource shall be allowed to recover all costs of the amended Agreement from customers via a non-bypassable rate mechanism as directed by 2022 N.H. Laws, ch. 275; and it is

FURTHER ORDERED, that Eversource shall cause a copy of this order to be published on its website within one business day of this order, and to be documented by affidavit filed with the Commission on or before October 21, 2022; and it is

FURTHER ORDERED, that persons interested in responding to this order be notified that they may submit their comments or file a written request for hearing, stating the reason and basis for a hearing, no later than October 28, 2022 for the Commission's consideration; and it is

FURTHER ORDERED, that any person interested in responding to such comments or request for hearing shall do so no later than November 4, 2022; and it is

FURTHER ORDERED, that this order shall be effective November 14, 2022, unless Eversource fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this fourteenth day of October, 2022.



Daniel C. Goldner
Chairman



Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket#: 22-050

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