

**THE STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

Docket No.: DE 16-693

**PETITION OF PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
D/B/A EVERSOURCE ENERGY
FOR APPROVAL OF A POWER PURCHASE AGREEMENT**

**PETITION TO INTERVENE
ON BEHALF OF THE NEW ENGLAND POWER GENERATORS ASSOCIATION, INC.**

Pursuant to the New Hampshire Public Utilities Commission (the “Commission”) Order of Notice (“Order”) dated October 25, 2016, and pursuant to N.H. Code Admin. Rules Puc 203.17, and RSA 541-A:32, the New England Power Generators Association, Inc. (“NEPGA”)¹ hereby respectfully petitions for leave to intervene in the above-captioned proceeding. In support of its petition, NEPGA states the following:

1. NEPGA is a non-profit trade association representing competitive electric generation companies in New England with its principal place of business located at 33 Broad Street, Boston, Massachusetts 02109.
2. NEPGA’s member companies own or control nearly 26,000 megawatts (“MW”), or more than 80 percent, of generating capacity throughout New England, with more than 2,700 MW generated by New Hampshire companies from wind, solar, gas, nuclear, biomass and hydro. NEPGA’s mission is to support competitive wholesale electricity markets in New England. Open markets guided by stable public policies are the best means to provide reliable and competitively-priced electricity for consumers. A sensible, market-based approach furthers economic development, jobs, and a balanced environmental policy for the region.

¹ The comments expressed herein represent those of NEPGA as an organization, but not necessarily those of any particular member.

3. As participants in the region's wholesale power markets, NEPGA's members have a substantial and specific interest in a fully competitive generation market and maintaining a level playing field within that market. As set forth herein, NEPGA's members' substantial interests will be adversely impacted by Eversource's proposed 20-year Purchase Power Agreement ("PPA") which, if approved, will directly affect the competitive generation market.

4. On June 28, 2016, Public Service Company of New Hampshire d/b/a Eversource ("Eversource") filed a petition, pursuant to RSA 374:57 for approval of a PPA between Eversource and Hydro Renewable Energy Inc., an indirect wholly-owned subsidiary of Hydro-Quebec.

5. Eversource seeks to purchase approximately 100 MW of firm, on-peak electric energy delivered to Eversource's Deerfield Substation over the proposed Northern Pass Transmission line, a line being developed by Eversource's competitive affiliate, Northern Pass, LLC. This energy will be sold into the ISO-New England energy market by Eversource. Eversource proposes that for ratemaking purposes, the PPA would be accounted for through Eversource's Stranded Cost Recovery Charge ("SCRC") established by the 2015 Restructuring Settlement Agreement and approved by the Commission by Order No. 25,920 (July 1, 2016) in Docket Nos. DE 11-250 and DE 14-238. Order at 1-2.

6. As set forth in the Order, this proceeding will require the Commission to address issues related to whether Eversource has the corporate authority to enter into the PPA under RSA 374:57; whether the PPA would violate the Restructuring Principles of RSA Chapter 374-F, or any other New Hampshire law, or any federal law, including the Federal Power Act, especially in light of the Commission's recent ruling in Docket No. DE 16-241, Order No. 25,950 (October 6, 2016), relating to an Eversource proposal to acquire gas capacity in which the Commission

dismissed the petition as violating the Restructuring Principles of RSA Chapter 374-F; whether the inclusion of PPA costs in the SCRC would be permitted under RSA Chapter 374-F, RSA 374:57, RSA Chapter 378, the terms of the 2015 Restructuring Settlement, and Commission precedential standards for ratemaking, as just, reasonable, and in the public interest; whether Eversource's decision to forego a competitive solicitation process to identify and select the least cost supplier of products and services reflected in the PPA comports with the requirements of N.H. Code Admin. Rules Puc 2100, and the standards of prudence applied by the Commission for such contracting; whether the assertions made by Eversource regarding expected benefits and costs of its participation in the PPA are supported by the evidence, including evidence of economic and engineering costs, benefits, and feasibility. Order at 2-3.

7. The Commission will divide its review of this petition into two phases. In the first phase, the Commission will determine whether the Eversource PPA is allowed under New Hampshire law. In the event of a second phase, the Commission will examine the appropriate economic, engineering, cost recovery, and other factors presented by Eversource's proposal. This Order opens the first phase of this review proceeding. Order at 3

8. NEPGA seeks to intervene in this proceeding. N.H. Code Admin. Rules Puc 203.17 requires the Commission to grant petitions to intervene in accordance with the standards of RSA 541-A:32. Section I of RSA 541-A:32, mandates intervention if a petitioner demonstrates that its "rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law." RSA 541-A:32, I. Discretionary intervention is permitted under RSA 541-A:32, II when the Commission determines "that such intervention would be in the interests of justice and would not impair the orderly and prompt conduct of the proceedings." RSA 541-A:32, II; see also In re:

Public Service Company of New Hampshire, Reconciliation of 2009 Energy Service and Stranded Cost Recovery Charges, DE 10-121, Order at 2 (July 20, 2010) (Petitioners were granted intervention pursuant to RSA 541-A:32, II, where the petitioners "raised certain issues that are relevant to this proceeding that [would] not necessarily be addressed by other parties and, in the Commission's discretion, [would] serve the purposes of justice if pursued.").

9. NEPGA's members own and operate electric generation facilities in New England that supply wholesale energy into ISO-NE, competing with other power generators and other electricity suppliers to provide these services. The proposal in the instant case has the potential to confer upon Eversource, as a competitor with NEPGA's members, a benefit that would not otherwise be available to it (*e.g.*, 100 MW of power under a non-competitive sole source PPA), which would adversely affect NEPGA's members' participation in the wholesale energy market in ISO-NE. The proposed influx of 100 MW to the ISO-NE market pursuant to an out-of-market PPA will directly affect competitive markets, impact wholesale pricing and undermine the development of a competitive electric market in New Hampshire. Accordingly, as a representative of a substantial market share within the regional energy market and as a representative of New Hampshire companies that must compete within that market, NEPGA has unique and important interests that will be affected by this proceeding.

10. The Eversource petition presents fundamental issues which relate to the ability of NEPGA's members to compete in the New Hampshire and New England electricity market. The Order appears to recognize these direct and substantial impacts. For example, among other things, the Commission seeks to consider issues that directly impact the restructured market including whether Eversource's proposal violates "Restructuring Principals" and the Federal Power Act, and whether its failure to undertake any competitive solicitation comports with the

requirements of N.H. Code Admin. Rules Puc 2100, and the standards of prudence applied by the Commission for such contracting. Order at 2-3.

11. NEPGA's direct and substantial interest in these and other issues raised by the proposal creates good cause for the Commission to approve NEPGA's intervention. RSA 541-A:32, I. Alternatively, the Commission may also approve the intervention because it satisfies the interests of justice and NEPGA's timely intervention would not impair the orderly and prompt conduct of the proceedings. RSA 541-A:32, II. NEPGA's knowledge and experience with the issues in this case (as noted below) would be valuable to the Commission's consideration of the issues. Accordingly, the "interests of justice" also favor the Commission approval of NEPGA's petition.

12. The legal basis for NEPGA's intervention has been clearly demonstrated in other related proceedings, by both the Commission and Eversource. See Order No. 25,830 at 5, DE 14-238 (October 23, 2015) (Addressing Eversource's contention that a discussion about the PPA was premature, the Commission stated, "We accept Eversource's representation that 'no PPA has been finalized.' If and when Eversource files [a PPA] with Hydro-Quebec, parties [NEPGA] will be free to argue whether, and the extent to which, that agreement affects the Settlement Agreement"). Additionally, Eversource in a simultaneous proceeding at the New Hampshire Site Evaluation Committee ("SEC") acknowledges that "...the PUC has opened a proceeding to review the PPA, and separately established a mechanism for treating PPA and other similar costs that insulates them from competitive markets...If NEPGA wishes to challenge whether the PPA is in the public interest, it may seek recourse at the PUC." See SEC Docket No. 2015-06, Eversource Objection to NEPGA Motion to Compel at 3. It is thus apparent that NEPGA's substantial interest in the PPA has been recognized in related proceedings and must be addressed

in the instant proceeding, and accordingly NEPGA's request for full intervenor status should be granted by the Commission.

13. Furthermore, NEPGA has specifically been granted full intervention in another Eversource proceeding involving a PPA approval. See PSNH Petition for Approval of Power Purchase Agreement, DE 10-195, Order at 9-10 (in granting NEPGA full intervention, the Commission explained that NEPGA "has expressed an interest on behalf of its members in the process used to negotiate this PPA and we granted intervention as a matter of discretion"). Additionally, the Commission has previously recognized that the interests of "wholesale generators [like NEPGA] and retail suppliers whose interests revolve around the effects [that certain PUC dockets] may have on the electricity markets...[while] not sufficiently direct to support mandatory intervention..." nonetheless may warrant permissive intervention because such parties "may raise issues, present information, and provide guidance" to the Commission throughout the proceeding. See Determination Regarding PSNH's Generation Assets, DE 14-238, Order at 12. Similarly, NEPGA has also been granted intervention in other Commission proceedings including: DE 10-160 (PSNH customer migration docket); DE 10-261 (PSNH Least Cost Integrated Resource Plan); and DRM 14-234 (rulemaking on Chapter 2100 affiliate rules), as well as others.

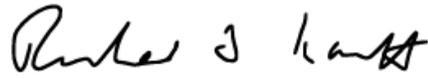
14. NEPGA therefore respectfully requests the right to participate in this proceeding as full party. No other parties can adequately represent NEPGA's interests in this proceeding.

WHEREFORE, NEPGA respectfully requests that the Commission grant its timely Petition to Intervene and permit NEPGA to participate in this proceeding with full rights as a party.

Respectfully Submitted,

**NEW ENGLAND POWER
GENERATORS ASSOCIATION,
INC.**

By its attorneys,

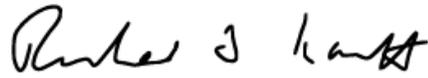


Richard A. Kanoff, Esq.
Saqib Hossain, Esq.
Burns & Levinson LLP
125 Summer Street
Boston, MA 02110
(617) 345-3000
rkanoff@burnslev.com
shossain@burnslev.com

Dated: November 2, 2016

Certificate of Service

I hereby certify that on November 2, 2016, pursuant to Puc 203.02 & 203.11, I served an electronic copy of this Petition on each person identified on the Commission's service list for this docket and with the Office of the Consumer Advocate, by delivering it to the email address specified on the Commission's service list for the docket.



Richard A. Kanoff