

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

DE 16-817

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

Auction of Electric Generation Facilities

Comments of Conservation Law Foundation

Conservation Law Foundation (“CLF”) appreciates the opportunity to comment on the auction and design process described by J.P. Morgan in its September 12, 2016 proposal to the Commission (“Proposal”). CLF’s comments are based on the important goals not only of maximizing value for ratepayers, but also (1) establishing a competitive energy market in which Eversource Energy (“Eversource”), as an electric utility, no longer owns and operates any electric generating assets, and (2) achieving this outcome expeditiously.

1. The auction should be designed to achieve the goal of a competitive energy market by ending Eversource’s ownership and operation of all its current generating assets.

The June 10, 2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement, as amended (“Agreement”), provides that the goals of the assets auctions “are to maximize the Total Transaction Value (“TTV”) . . . realized from the sale(s) in order to minimize Stranded Costs, to provide a market-based determination of Stranded Costs, *and to establish a competitive energy market . . .*”¹ It provides that a “Failed Auction” is “[a]n asset auction that results, after Commission determination, in some or all of the generation assets listed in Section IV.C herein not being sold”² and requires that in the event of a failed auction, as a next step either Eversource shall be directed to pursue retirement of the unsold assets *or* a second auction process for unsold assets shall occur, with the requirement that the retirement option for assets that still remain unsold (i.e., after a second attempted auction) be pursued expeditiously.³

J.P. Morgan proposes a broad and open auction process, enabling bids on the full portfolio of assets, a subset of assets, or a single asset, in one multi-round process. Notably, J.P. Morgan’s proposal does not contain any statement envisioning a separate process for any asset that fails to sell in the one multi-round process it proposes. CLF agrees that J.P. Morgan has significant expertise to pursue the block sale of the entire New Hampshire portfolio and that, as J.P. Morgan anticipates, the proposed broad, open approach will likely achieve that objective.⁴

¹ Agreement at 16 (Section IV.A) (emphasis added).

² *Id.* at 5.

³ *Id.* at 22 (Section IV.G).

⁴ Proposal at 5 (stating expectation “that there will be a number of parties that will be interested in the entire Portfolio, and that there will be a number of parties that will be interested in select assets or subsets of assets.”).

However, to deter bidders from underbidding or “staying their hand” in anticipation of a second auction, and because the broad, open approach proposed by J.P. Morgan effectively could lead to multiple types of auctions in the same process (i.e., based on a variety of assets groupings), the Commission should consider making clear, at the outset, that it will proceed directly to the retirement option in the event of a failed auction, as leaving open the possibility that there will be an auction of unsold assets increases the likelihood of one or more assets remaining unsold, as well as the likelihood that bidders might approach the upcoming auction strategically anticipating a potential second auction for unsold assets. CLF believes that providing this clarity from the outset is the best way to effectuate the vision J.P. Morgan has articulated and achieve the objectives of divestiture. Alternatively, and at a minimum, the Commission should consider making clear from the outset that any second auction would occur on an accelerated basis (i.e., much more promptly than the 90-day maximum timeframe set forth in the settlement agreement). In the event a second auction occurs, we assume that it will be governed by a different design as compared to the one J.P. Morgan contemplates for the upcoming auction.

With respect to the first auction, we strongly encourage the Commission and auction manager to obtain information regarding the cost of retirement for individual assets. Such data could prove helpful to the auction manager and Commission in determining whether a “sum of all parts” approach that leaves an asset unsold, *supplemented by* expeditious retirement of the unsold asset, is economically superior to a bid for the full portfolio or bids that collectively would result in the sale of all assets.

2. The auction design and process should enable divestiture to be achieved expeditiously.

The Agreement emphasizes the importance of pursuing the divestiture of Eversource’s generating assets expeditiously.⁵ CLF agrees that the schedule set forth in J.P. Morgan’s proposal is consistent with this need and, as such, supports it. We urge the auction manager and Commission to avoid process changes that will undermine this important objective and reiterate the request that the Commission and auction manager make clear from the outset that unsold assets will proceed directly to the retirement option, or at the very least will be subject to a second auction promptly following the close of the first one.

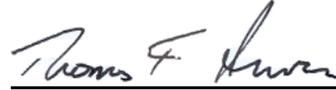
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Again, CLF appreciates the opportunity to provide these comments.

⁵ See Agreement at 2 (Section I) (describing a key component of the Agreement as including “Expeditious pursuit of divestiture of PSNH’s generating plants after a final decision by the Commission approving the settlement”) (emphasis added); *id.* at 16 (Section IV.A) (“For the economic benefit of customers, the Commission and PSNH shall *expeditiously* pursue divestiture of PSNH’s owned generation fleet”) (emphasis added).

Respectfully submitted,

CONSERVATION LAW FOUNDATION



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has on this 30th day of September, 2016 been sent by email to the service list in Docket No. DE 16-817.



Thomas F. Irwin (NH Bar No. 11302)