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November 4, 2016

Ms. Debra A. Howland
Executive Director
New Hampshire Public Utilities Commission
21 Fruit Street, Suite 10
Concord, NH 03301

Re: Public Service Company of New Hampshire d/b/a Eversource Energy
Auction of Electric Generation Facilities
Docket No. DE 16-817

Dear Director Howland:

Enclosed for filing in the above noted docket, pursuant to Puc 203.02, is an original and six copies of the additional written comments of J.P. Morgan (JPM), the auction advisor to the Commission, concerning the auction design and process for the sale of the Eversource generation facilities. This document is intended to explain the overall principles and criteria for an effective auction design for the sale of the Eversource generation facilities.

These documents will also be transmitted electronically to you and to the service list in the above noted docket, pursuant to Puc 203.03 and 203.11. If you have any questions please do not hesitate to contact me at 271-6005.

Very truly yours,

F. Anne Ross, Esq.
General Counsel

Enclosure
cc: Service List

NOVEMBER 3, 2016

NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

J.P. Morgan comments on Auction principles and specific process criteria

NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

J.P.Morgan

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1. J.P. Morgan comments on Auction principles and specific process criteria

A. High-level principles for a successful Auction

Each process must reflect the unique circumstances of the assets, the market, and the Potential Bidders. In this divestiture, per Order 25,920, the primary goal of the Auction is to maximize the net Total Transaction Value ("TTV") which reflects all of the cash and noncash elements of the transaction, including limitation of liabilities to current PSNH stakeholders.

A key aspect of any sale process involving assets as complex as power plants is that it takes Potential Bidders a significant amount of time, energy and money to reach a point where they are comfortable entering into a binding purchase and sale agreement to acquire the assets. In addition to their own time, Potential Bidders typically hire outside advisors (including legal, financial, engineering, commercial, environmental, power market, HR & benefits) to assist them in conducting due diligence, evaluating the transaction / assets, and negotiating the purchase and sale agreement. Potential Bidders can spend potentially millions of dollars evaluating a transaction without knowing for certain they will be the successful bidder.

Given that fact, Potential Bidders are reluctant to participate seriously in processes where there is tremendous uncertainty around the process by which a winning party is selected. The more uncertainty there is surrounding a process, the less likely it is Potential Bidders will be willing to spend the money required to participate effectively.

With this as background, in J.P. Morgan's experience, the successful objectives and guiding principles of such value-maximizing transactions are as follows:

- **Competition**: A key driver of value maximization is the perception of competition among bidders. Key to creating this perception is having a process where the steps / stages are clear and are followed. Where the process as laid out is not followed, it typically suggests to buyers there is weakness in the process (i.e., less competition). Buyers need to be made to feel there are other parties looking seriously at the assets and who have made higher value proposals. As part of this, as parties are moved forward in the process, they are informed only whether they are moving forward in the process but not given specifics around their value relative to others. In this regard, the goal is for each buyer to bid the maximum value they are willing to pay for the plan. Where they sense there is less competition or where they feel uncertainty in the process, they are less likely to bid their maximum value.
- **Transparency**: The rules and procedures of processes need to be reasonable and clearly defined for bidders. Processes viewed as transparent by potential bidders will yield greater Auction participation and higher bid prices for assets. A process in which the rules are unclear results in confusion and uncertainty for potential bidders. This confusion or uncertainty typically either results in bidders choosing not to participate or can impact their view of value. Transparency is critical not only in due diligence and disclosure, but also in providing process expectations for bidders.
- **Industry-standard process**: While every sale process is unique, there are general parameters that processes in the industry typically follow. Potential bidders are more likely to participate in the Auction if they are accustomed to the timing, requirements, and selection criteria for the process, and if the Auction is run in a standard manner with limited atypical features. Where processes diverge from these general parameters, if at all, there needs to be a very clear reason, but even if a clear reason is given, buyers may still choose to forego participating because of the atypical nature of the process.
- **Fairness among bidders**: Potential bidders expect to be treated fairly within a process. In other words, they expect that no other party is getting access to information or access to the

process that they are not receiving. This is for obvious reasons – they would rightly feel they cannot compete effectively if others are given a "leg up" over them. Disproportionate treatment of certain participants in the process would significantly depress interest in the overall Auction. Bidders will be less likely to participate if they perceive certain bias or process leniency towards specific bidder(s) occurring in the Auction. Here, given the Commission order, municipalities are given some advantage in terms of access to information and timing, but ultimately, municipalities are being required to follow the same "rules of the road" as other Potential Bidders in terms of their final, binding proposals, so we would expect Potential Bidders to get comfortable with this non-standard feature of the process.

  - **Availability of data provided to bidders:** Bidders will expect their access to data, due diligence, and other important materials, to be fair and consistent with that of other bidders within the same round.

- **Process continuity:** Limited changes and disruption to the process, included but not limited to the following, will encourage bidder participation and value maximization:

  - **Appropriate pace of process:** Pre-determined calendar and timeline and standard time allotted between rounds and deliverables will enhance bidder participation and value maximization. A pace too quick for bidders does not allow enough time for proper due diligence; a pace too slow often leads to greater bidder attrition within a process.

B. Timing of Auction

Based on our experience in managing similar processes, it is our view that absolute timing and timeline certainty is a crucial factor for bidder participation in the Auction. Not only should a clear timeline be followed, but the process should be launched into a market that is generally supportive of maximizing value. Currently, the market is supportive. There is a strong pool of parties looking to acquire merchant power assets who have access to both equity and debt financing.

Macroeconomic market uncertainty, including the power pricing markets, the fuel supply markets, the equity capital markets (both private and public) and the debt capital markets, can materially impact processes. If these markets are less favorable, it can mean that the buyers are not able to obtain financing or, if they are, the financing is at such cost as to materially impact the price they can pay.

Other key factors impacted by timing are the number of other assets for sale and the number of parties that are in the market looking to secure merchant power assets.

It is J.P. Morgan's view that the above factors are currently supportive of the process and the timeline as proposed attempts to take advantage of that fact. Further delays in the process (either upfront or throughout) increasingly risk these favorable conditions falling away, which could materially hurt the ability of the process to maximize value for the assets.

C. Criteria for bidders to move from Round 1 to Round 2

In selecting parties for the second round of the process, J.P. Morgan recommends using a combination of the below criteria to try to ensure that parties participating in round 2 are willing to pay the highest value and ultimately would be able to consummate a transaction:

- **Bid price / value relative to other bidders:** We would typically select a group of potential bidders that have offered the highest potential value for the portfolio and / or subset of assets.
- **Assets included in bid:** We would expect to select parties that are interested in purchasing broader groups of assets, and would most likely not select bidders who bid on single assets

(with the exception of the municipalities). In the case of the portfolio, it is likely that certain buyers may be interested in only the thermal assets while others may only be interested in the hydro assets. Moreover, if there are enough buyers for the whole portfolio at attractive values, it may not be practical or optimal to select parties bidding on less than the whole portfolio for the second round.

- **Demonstrated ability to finance:** Buyers will have to demonstrate as part of entering the process via the RFQ and as part of their bid that they have the ability to finance the transaction they are proposing.
- **Demonstrated commitment to the transaction:** While the best indicator of a buyer's commitment to a transaction is their engagement of advisors and consultants (i.e., spending money), other data points can be helpful. Other examples include whether the individuals at the buyer engaged in the process are senior within their organization, whether the buyer has vetted their bid internally with the appropriate decision-makers, what level of approval the bid received within the buyer's organization, or whether the buyer has appeared engaged during the first round (asking questions, seeking information, maintaining contact with J.P. Morgan).
- **Reputation of the buyer in the market:** J.P. Morgan would also take into account its perception of buyer behavior in the marketplace, in particular, past behavior in auction processes. For example, if a buyer is known to often "bid high" in an attempt to be selected for the second round but then does not typically submit a final proposal, this would be taken into account and weighed against such buyer. Likewise, if a buyer typically holds their bid from the first to the second round, this would be taken into account and weigh in its favor.
- **Ability to support Round 2 due diligence**: The number of parties selected in general will be limited to a number that J.P. Morgan, in consultation with Eversource, believes can be supported in detailed due diligence within the timeframe targeted for the second round. This number is typically a maximum of 10 parties, but that number can vary up or down depending on the resources available and the due diligence demands of the buyers selected into the second round.

D. Round 2 bids

At the conclusion of the second round, parties will be asked to submit final, binding bids, including markups of the relevant transaction agreements / documents and including any documentation related to third party financing they will require to finance the transaction. The proposal / documents must be in a form where the buyer is willing to transact with no further changes. In particular, the documentation related to financing must provide for binding financing commitments.

These proposals have to be binding because the seller will need to go through final negotiations with the winning party, once that party is selected. The seller needs to know (and have a documented commitment) from the buyer that their proposal is final, not subject to further due diligence and thus will not change materially. In other words, the seller needs to know what deal they are getting from the buyer.

The contingencies in a final bid are typically limited to successfully negotiating a transaction agreement. The transaction agreement itself will contain some measure of conditionality (e.g., regulatory approval) but there will be very specific, delineated limits / requirements around those conditions, which will be clearly laid out in the transaction agreement.

E. Proposed "third round" structure

J.P. Morgan would not recommend a subsequent round (so-called "third round" or "Round 3") once a bidder with a binding, fully-financed offer has been chosen as winning bidder. Doing so could have several negative impacts to the process, each of which would likely lead to either depressed value indications or bidders simply choosing not to participate as buyers would need to be alerted to such "third round" at the outset of the process:

- **Creation of uncertainty**: The concept of a "Round 3" is not commercially standard, and would therefore confuse bidders and cause substantial uncertainty around the process – even after submitting a "final binding proposal," a bidder would not yet know whether they've won. As stated previously, process uncertainty would be a key component of bidder hesitation to participate or bid in the process
- **Higher cost of due diligence and participation**: Bidders participating in the process will be spending significant time and money to participate in the Auction, including but not limited to the risk of potential "broken deal fees" – i.e., costs borne by the buyers who are unsuccessful. Bidders will be much less likely to participate in a process where there is a perceived higher risk of broken deal fees and higher probability of sunk due diligence and deal costs due to upfront uncertainty, even as a potential winning bidder
- **Suppressed appetite in the Auction**: Based on our experience in managing similar processes, as well as our understanding of the Potential Bidder universe and interest in the Portfolio, we would expect that the disproportionate treatment of Round 3 participants would significantly depress interest in and challenge the validity of the overall Auction. Similar to other auctions where specific bidders are allowed "last looks," a proposed Round 3 would deter participants from bidding given the uncertainty created. If the best bidder is chosen as the winning bidder (per the criteria above), but may be challenged through an atypical Round 3, the overall bidder pool will lose confidence in the fairness and certainty of the Auction.

F. Auction Process Accommodations to Municipal Bidders

J.P. Morgan has made specific changes to help accommodate the Municipalities' participation despite the fact that such changes are nonstandard for similar value-maximizing processes. These changes include early access ahead of other buyers to confidential data and analysis to enable Municipalities to complete detailed due diligence early enough to decide to bid in round 2 and to obtain requisite approval for round 2 bids. Additionally, municipalities will not be required to submit a preliminary, non-binding indication of interest and therefore will not be subject to the criteria used to move all other bidders from round 1 to round 2. While such changes could potentially impact the process negatively, J.P. Morgan does not view such changes as likely to have a substantial impact on the process's ability to maximize value for the assets. Further, to the extent such disparate treatment of Municipal bidders may cause negative impacts to the bidding process, J.P. Morgan believes those impacts could be minimized and managed effectively

J.P. MORGAN SECURITIES LLC

Date: November 3, 2016

By: Paul Dabbar

Name: Paul Dabbar

Title: Managing Director

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FILING INSTRUCTIONS:

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21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429

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