

Robert J. Munnely Jr.

VIA E-FILING AND FIRST-CLASS MAIL

August 14, 2017

Debra A. Howland
Executive Director and Secretary
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

NHPUC 16AUG'17AM11:07

Re: Docket No. DE 17-113 Eversource Petition for Approval of Energy Service Supply Proposal
Retail Energy Supply Association Responses to Staff Report

Dear Ms. Howland:

Subsequent to the procedural conference and technical session of the Public Utilities Commission ("Commission") held on last Friday, August 4, 2017, undersigned counsel has had the opportunity to consult with Retail Energy Supply Association ("RESA")¹ concerning RESA's concerns with procedural and substantive issues raised by the instant proceeding. RESA communicated its concerns to Commission Staff on an informal basis on Thursday, August 10, 2017 in connection with scheduling discussions, and Staff requested that RESA codify these concerns in a letter filed in the Commission docket. RESA's concerns and positions with respect to this proceeding are as follows:

1. RE: Eversource's proposed January 1, 2018 RFP start date.
 - RESA does not believe that it would be lawful or good public policy to authorize Eversource to initiate a new wholesale procurement RFP process that would generate new energy service rates effective on January 1, 2018. Such new approach would

¹ The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of more than twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

distort the competitive retail marketplace by not reflecting the actual costs of generation still owned by Eversource and would be potentially confusing to customers.

- Additionally, RESA would oppose on both legal and policy grounds any effort to seek recovery of Eversource generation-related costs through the stranded cost recovery rate that is applied to all electric distribution customers, including those on competitive supply who do not have a cost-causative relationship with Eversource generation supply. In effect, the proposed stranded cost recovery approach would unfairly penalize those customers on competitive generation supply by requiring them to pay a non by-passable payment. RESA is concerned this incremental and unwarranted charge would have a chilling effect on the competitive retail market.
- RESA would respectfully request instead a Commission order that the RFP start date would commence only on a fixed date after completion of divestiture, such as on July 1, 2018, that could be delayed further in the event divestiture fails to be completed as currently scheduled. This would align the start of RFP-based energy service rates with the start of securitization of stranded costs. Moreover, this is the arrangement envisioned by the parties to the 2015 settlement – continue the current rate structure until divestiture is completed, then followed by an RFP process not more than six months after, with securitization to happen as of the same date.² Therefore, it makes significant policy, legal and practical sense to hold Eversource to such a schedule that would commence after divestiture is completed and not earlier than July 1 or a somewhat earlier post-divestiture date.
- RESA believes the Eversource proposal, especially its proposal to seek recovery of Eversource generation-related costs through the stranded cost recovery rate, will be challenging and financially harmful for New Hampshire's jobs-producing commercial, industrial and institutional customers who have budgeted a certain amount for electricity and now may be required to come up with additional dollars to meet this new regulatory obligation. Moreover, RESA believes the Eversource stranded cost recovery rate scheme would be in contravention of the spirit if not the intention of Governor Christopher T. Sununu's Executive Order dated January 5, 2017.³

² As described in the July 1, 2016 Commission order approving the divestiture settlement arrangements in Docket 14-238 (at p. 38, internal citations to the Settlement Agreement omitted, emphasis added), "Section III.B. of the 2015 Settlement Agreement delineates the terms under which Default Service would be provided for Eversource customers. Specifically, default service would be "acquired and provided in accordance with RSA Chapter 369-B until divestiture of [Eversource's] generating assets" and "[n]o later than six months after the final financial closing resulting from divestiture of [Eversource's] generating assets, [Eversource] will transition to a competitive procurement process for default service," consistent with the process determined by the Commission in Docket No. IR 14-338, "Review of Default Service Procurement Processes for Electric Distribution Utilities," as may subsequently be modified by the Commission."

³ As noted in the Commission's own February 6, 2017 "Request For Public Comment On New Hampshire Public Utilities Commission Administrative Rules" issued to solicit public comment addressing the impact of Governor Sununu's Executive Order on current agency rules, the Executive Order requires each New Hampshire state agency to evaluate rules with respect to whether they are "essential to health, safety, or welfare," and should consider whether:

2. RE: The Proposed Schedule.

- To the extent that the Commission will nonetheless seek to complete its review of issues raised in this proceeding on an expedited basis, RESA is concerned that the Commission and parties will not have sufficient time to properly litigate the issues in dispute in time to produce an order by mid-to-late October that would permit Eversource to move forward with an RFP, prepare and issue the RFP, receive the results of the RFP, receive Commission approval of the results, and allow customers adequate time prior to January 1, 2018 – such as the one-month period following a planned December 1 decision envisioned in the Eversource pre-filed testimony (at p. 16) – to review the new pricing and consider changes to existing supply service arrangements.
- In addition, it is important that the Commission understands the potential unintended consequences of an expedited January 1, 2018 implementation date. There are a significant number of customers who have entered into competitive supply agreements with Competitive Electric Power Suppliers (“CPES”) and whose contractual arrangements span multiple years. The commercial decisions to enter into these supply arrangements were, in part, based on the current wholesale procurement design. In RESA’s view, the Commission should provide adequate time and notice for customers to better assess and adjust to the potential market changes put forth in the Eversource proposal. For these reasons, RESA encourages the Commission to not implement any proposed changes to the wholesale RFP process any earlier than July 1, 2018.
- Nevertheless, RESA is prepared to conduct discovery on the expedited schedule outlined in the draft Staff Report and to participate in a technical session on September 8, 2017 or other reasonable date thereafter. RESA would ask to modify the schedule to make clear that Eversource be directed to respond to discovery requests as soon as they are completed, and not more than 5-7 calendar days following receipt at maximum, so that intervenors would have time for at least one round of follow-up discovery questions in advance of the September 8th technical session.
- Going forward from September 8th, RESA would support NextERA’s suggestion that any schedule include at least two and preferably three weeks for preparing intervenor testimony. RESA would also support requiring Eversource to prepare and file any

“(a) There is a clear need for the regulation that is best addressed by the Commission and not another agency or governmental body;
(b) The cost of the regulation exceeds the regulation’s benefits;
(c) The regulation is the least restrictive or intrusive alternative that will fulfill the need which the regulation addresses;
(d) The regulation unduly burdens the State’s citizens or businesses, or has an unreasonably adverse effect on the State’s competitive business environment; and
(e) The effectiveness of the regulation can be reasonably and periodically measured, and there is a process in place to accomplish the same.”

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rebuttal testimony in written form at least three business days, and preferably at least one week, prior to a scheduled evidentiary hearing so that intervenors would have fair warning of the issues remaining in the dispute; and that there would be at least one week and preferably two weeks, to prepare for a post-hearing brief. (If the Commission is going to request an oral closing, it should make that clear in advance of the hearing in order to avoid adequate time to prepare the closing arguments.)

An original and six (6) copies of this letter are filed herewith. Please contact the undersigned if there are any questions.

Sincerely,



Robert J. Munnelly, Jr.

RJM/jmc

cc: Service List (by email)