

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

ELECTRIC AND GAS UTILITIES

2018-2020 New Hampshire Statewide Energy Efficiency Plan

Docket No. DE 17-136

OBJECTION TO SECOND MOTION TO COMPEL DATA RESPONSES

NOW COMES Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource”) and, pursuant to Puc 203.07 and Puc 203.09, hereby objects to the Second Motion to Compel Data Responses (the “Second Motion”) filed on October 31, 2018 by the Office of Consumer Advocate (“OCA”). The OCA’s Second Motion only repeats or amplifies the same arguments made in its prior motion to compel relating to Eversource’s marginal cost of service study in the hopes that they might find purchase here. For reasons similar to those set out in Eversource’s October 26, 2018 objection to the OCA’s initial motion, as well as the reasons set out below, the Second Motion should be denied. In support of this submission, Eversource says the following:

1. The background of the filing relating to the abbreviated review of the 2019 Energy Efficiency Resource Standard (“EERS”) update filing, as well as the provisions of the settlement agreement and order relating to it are set out in the prior filings of the OCA and Eversource in this docket and need not be repeated here. The same holds true for the legal standard governing motions to compel. As concerns the Second Motion, as noted on pages 3 and 4 of the Second Motion, the OCA issued to all regulated electric utilities a data request seeking extensive data and information on “every circuit and each substation” in each utility’s system. The presumption underlying the request was that by virtue of a “directive” of the Energy Efficiency and

Sustainable Energy (“EESSE”) Board, the utilities were to have included a geo-targeting pilot in their 2019 EERS plan update, and, therefore, the OCA was entitled to information that might, potentially, support such a pilot program. As noted in Eversource’s prior objection, there was no such directive, there is no such pilot, the Commission has declined to pursue such pilots until some future date in alternative forums, and adding such a pilot into this abbreviated plan update proceeding is beyond the scope of this docket as defined in the settlement agreement and order on the EERS. Thus, the material sought by the OCA is not relevant to this docket and its production should not be compelled.

2. As described in Eversource’s prior objection, the settlement agreement establishing the EERS specified the scope of review for the update filings for 2019 and 2020 and stated that they will be reviewed in an abbreviated process that “shall serve as an opportunity to adjust programs and targets and address any other issues that may arise from advancements, including but not limited to, evaluation results, state energy code changes, and/or federal standard improvements.” April 27, 2016 Settlement Agreement in Docket No. DE 15-137 at 8. That description of the agreed upon process and scope was repeated by the Commission in Order No. 25,932 in Docket No. DE 15-137. *See* Order No. 25,932 at 42.

3. The preamble to the OCA’s question refers to the EESSE Board “directing” the various utilities to do something, and then, based upon that purported directive, the OCA seeks extensive past, present, and future information on “every circuit and each substation” of each utility. Thus, the question attempts to anchor a broad inquiry into utility system information to this docket by relying upon an alleged “directive” of the EESSE Board. Furthermore, the Second Motion makes clear that the motivation for seeking the information is not to explore or understand the plans or programs as they have been proposed in this update, nor is it to use the information in “an

opportunity to adjust programs or targets.” Instead, the OCA states that it seeks the information to “raise issues related to the role that non-wires alternatives (NWA) to [sic] distribution investments, and the question of geo-targeting of energy efficiency measures.” Second Motion at 5.

4. As Eversource noted in its previous objection at pages 7-8, there was no directive of the EESE Board. Further, the OCA’s Second Motion acknowledges that the EESE Board has no authority to issue such a directive. Second Motion at 11-12. What the EESE Board did do was precisely as Eversource noted in its prior objection – it adopted a recommendation that it ask the utilities to consider a variety of potential pilots, of which several examples were given. In implementing the three-year plan of the EERS after that recommendation was adopted, a geo-targeting pilot was not incorporated, and is not part of this abbreviated plan update, and the EESE Board was aware that it was not part of the plan. Eversource did not, and does not, claim that there would never be any benefits from pilots such as the ones identified, nor is there any claim that they could not be pursued in an appropriate forum.¹ Those pilots, however, are not part of this filing and there is no “directive” that renders them relevant to the matters before the Commission.²

¹ Indeed, at page 4 of its prior objection Eversource noted that the Commission has already identified the potential forums where it believes non-wires alternatives would be more appropriately considered.

² Also, and as stated in the response to OCA question 2-11 which was appended to the OCA’s Second Motion, geo-targeting has never been thoroughly discussed during any part of the stakeholder process. As the OCA notes in the Second Motion, at 12, utility representatives did attend the meetings of the EESE Board and the EERS Committee. Utility representatives also attended all of the energy efficiency program quarterly meetings in 2017 and 2018 and all of the DE 17-136 working group meetings in 2018. So far as the utilities are aware, nowhere in any of these dozens of forums has there been a substantive discussion among the stakeholders about geo-targeting pilots, their potential application, potential costs, potential impacts to other programs if they are implemented, or any of the other important elements that should be discussed before a new pilot is proposed for inclusion.

5. Further, beyond the claimed directive of the EESE Board, the OCA requests that the Commission compel production of this information because it seeks to explore NWAs in this docket. As legal matter, such review would be a marked departure from the scope of the docket as set in the settlement agreement. Though the OCA contends that there is nothing in the settlement that “precludes the signatories from asking the Commission to adjust” the programs, Second Motion at 7, it is likewise the case that the OCA is not proposing to adjust the programs, but it is seeking to introduce an entirely new program. To conclude as the OCA’s argues would require reading out of the settlement agreement the defined purpose of the update filings. Such a reading is not reasonable. To the extent the OCA believes it appropriate to ask the Commission to adjust programs, it may do so.³ Such desire, however, does not justify unbounded discovery in the hopes that it might produce some information that may prove helpful in some future request that goes far beyond the agreed scope of the proceeding. The OCA’s request is for material that formed no part of the plan filing and no part of any testimony or proposal before the Commission and it is not relevant to this docket.

6. Further, there are practical reasons the OCA’s motion should not be granted. The long-term reliability of the distribution system and the improvements necessary to keep it safe and reliable are issues of distribution planning. If, in the process of such planning, a utility identifies projects that meet certain criteria (i.e., characteristic of need, timing of need, duration of need, when the upgrade would be needed, et cetera) there may be an opportunity to explore NWAs, and, at that point, energy efficiency along with other distributed energy resources would become part of those analyses and possible solutions. Putting energy efficiency first, puts the cart before the horse. Distribution engineering should be driving NWAs with energy efficiency

³ Eversource also noted in its footnote 3 in its prior objection that the parties could mutually agree to amend the scope of the docket, but that there is no such mutual agreement in this case.

possibly being part of a solution. The Second Motion, and the OCA's November 1 statement of legal position as well as its November 2 testimony in this docket, seem to acknowledge that reality, yet the OCA still seeks to have the Commission compel the production of extensive distribution system information in an abbreviated energy efficiency docket.⁴

7. In the Second Motion the OCA also attempts to claim that it may introduce new items because the 2019 plan identifies other changes as having been made or proposed. Though they are dubbed "material changes," a review of the changes identified on Bates pages 50-51 of the update filing demonstrates that they are precisely the types of adjustments contemplated for an update. Using the same examples pointed to by the OCA, there are proposals to develop a new point of sale e-rebate platform for the Energy Star Products program and to create a new incentive structure for the manufactured homes segment of the Energy Star Homes program. As to the first, rebates under the Energy Star Products program are currently available either through the mail or by on-line submission. The plan's proposal is use new technology options to look at making rebates easier for customers by providing them at the point of sale, rather than by a later submission.⁵ This change does not introduce a new program but explores a more efficient means of providing a present benefit. As to the Energy Star Homes program, the filing states: "The program design remains as described in the 2018-2020 Plan. The NH Utilities are developing an incentive structure for ENERGY STAR manufactured homes in order to reach an additional subset of the new home construction market." September 14, 2018 Plan Update in Docket No.

⁴ The OCA's justification creates other practical problems. For example, the elements of the approved 3-Year Plan received extensive stakeholder review, feedback and planning revisions during a seven-month informal stakeholder process, and further review during the previous formal stages of this docket. The OCA now seeks new information so that it, as an individual stakeholder, may develop and propose a significant new program element within the data request and testimony portion of an abbreviated docket. Such a process runs counter to the intended stakeholder collaboration envisioned by the EERS.

⁵ For a more complete description of the Energy Star Products program, see Bates pages 80-87 of the Revised three-year plan, filed on January 12, 2018 in DE 17-136.

DE 17-136 at 21.⁶ Thus, explicitly, the program design is unchanged, while a new incentive is being explored that could, potentially, make the program more accessible to a new segment of customers. These are exactly the kinds of changes and advancements to existing programs that were intended for update filings. The fact that these program adjustments have been proposed does not mean that any or every potential other proposal becomes relevant to this filing. The OCA's Second Motion does not demonstrate why gathering widespread data on utility distribution systems is relevant to any proposal before the Commission nor that the intended purposes for gathering that information are justified.

8. As to the objection relating to burden, the OCA contends that it is unable to respond to that objection except to argue that because Eversource had time to object to the OCA's initial motion, it must have the time to gather the information sought. Such contentions are without merit. The OCA's question seeks information on "every circuit and each substation," without limitation, and in its emailed request following the objection, the OCA made no indication that it would limit or refine its request. Eversource has more than 400 feeder circuits, and many more downstream circuits, and more than 170 substations. While some of these facilities have advanced data acquisition capabilities, many do not. From their participation in other dockets, the OCA and others are aware of these facts. *See, e.g.*, March 20, 2017 Grid Modernization in New Hampshire report in Docket No. IR 15-296 at Bates 34. Though some of the data sought by the OCA might be available, other data is time consuming to create or collect and would require extensive manual effort to produce. Thus, even if this information was relevant, the effort to produce it would be unduly burdensome and time consuming.

⁶ For a more complete description of the program design to which the update refers, see Bates pages 71-79 of the Revised three-year plan, filed on January 12, 2018 in DE 17-136.

9. As a final note, in its November 1 statement of legal position, the OCA contends that a possible means of addressing its desires is to extend or create a second track for this docket. This docket, whether extended or not, is not the appropriate place to do a full review of distribution system needs and potential NWA pilots. As described above, while energy efficiency could potentially be part of a solution to distribution system needs, it does not drive those needs. Therefore, an energy efficiency docket is not the best venue to identify and address those issues. If the Commission is interested in further pursuing the items raised by the OCA, it would best be done in a new docket – most probably those already identified by the Commission relating to resource planning or grid modernization. Eversource is amenable to participating in efforts to identify and review distribution system improvement opportunities where energy efficiency could be a feasible element of a solution and would be willing to incorporate energy efficiency measures in future energy efficiency filings when or if appropriate distribution system improvement opportunities are identified. Even when doing so, however, all parties to such a review would need to be mindful of the potential costs of such solutions and the potential impacts to the overall energy efficiency programs if resources are to be shifted to include NWAs or other resources.

WHEREFORE, Eversource respectfully requests that the Commission:

- A. Deny the OCA's Second Motion to Compel; and
- B. Grant such further relief as is reasonable and appropriate.

Respectfully submitted this 9th day of November, 2018.

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

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CERTIFICATE OF SERVICE

I hereby certify that, on the date written below, I caused the attached to be served pursuant to N.H. Code Admin. Rule Puc 203.11.

November 9, 2018
Date


Matthew J. Fossum