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November 6, 2017

New Hampshire Public Utilities Commission
Consumer Affairs Division
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

sent via Federal Express

**Re: Complaint of Ensconce Data Technologies, LLC against Eversource
Eversource File No. G20161994**

Dear Sir or Madam:

This office represents Ensconce Data Technologies, Inc. ("EDT"). EDT hereby lodges a complaint against Eversource for its refusal to negotiate in good faith to resolve a dispute arising out of Eversource's negligent cutover of a transformer. This letter explains what happened, EDT's expert review of the issue, and Eversource's refusal to negotiate in good faith. EDT seeks your intervention to require Eversource to negotiate in good faith.

I. Background.

EDT is a technology company that develops and sells bespoke data shredding machines. Each machine costs EDT approximately \$50,000.00 to build in a quantity of four units. At its Portsmouth office, EDT maintains an office and operates several of its machines.

EDT is a tenant at 100 Market Street, in Portsmouth. The building's owner is 100 Market Street, LLC. The building is Class A office space with 54,000 square feet of space. Before this issue arose, the building was powered through a transformer contained in the building's basement.

In 2016, Eversource decided to remove the transformer from the basement and run power through a new transformer, to be installed across the street. Eversource's manager-in-charge was Michael Busby, Eversource's Manager of Field Engineering Design. Mr. Busby told 100 Market that it intended to perform the cutover on June 2, 2016 in the early morning. Mr. Busby assured 100 Market that the cutover would simply cause a blackout "like any other power outage." 100 Market asked whether 100 Market needed to take any action before the cutover, and Eversource replied that no such action was necessary, and that 100 Market's personnel did not need to attend the cutover.

On June 2, 2016 at approximately 5:10am, Eversource performed the cutover. Mr. Busby did not attend: his subordinates performed the cutover. Before beginning the work, Eversource

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negligently failed to open the building's main circuit breaker, which left the building exposed to the cutover. Opening the main breaker would have protected the building from the cutover. It was a matter of opening one switch.

Eversource's cutover procedure caused single phasing and brownouts.¹ Eversource disconnected the primary side phases from the onsite transformer by removing three live fuses, one-at-a-time, from the transformer. By removing one live phase at a time, Eversource caused a coextensive single-phasing and brownout incident. The equipment that was not connected to the life safety generator experienced a brownout for as long as it took Eversource to remove the remaining fuses.

Eversource connected the offsite transformer by installing one live fuse at a time. This caused a second single-phasing and brownout incident for all equipment except the equipment connected to the life safety generator. The two brownouts were long enough to set 100 Market's three-phase air handler afire, requiring emergency response from the Portsmouth Fire Department. It is, therefore, unsurprising that EDT's single-phase equipment experienced crippling damage from the brownouts they experienced.

Eversource could have—and should have—protected the building by opening the main circuit breaker before performing the work. That way, the building would have been shielded from the power fluctuations caused by the cutover. Eversource broke the first, basic, inviolate rule of performing electrical work: turn off the power before doing the work.

Later that morning, EDT opened its office to find two laptops, one desktop, one server, and four data shredding machines were rendered unusable.

The next week, on June 10, 2016, 100 Market's Chad Gamester and EDT's Dan Casperson spoke with Mr. Busby outside the 100 Market building. Mr. Busby began the conversation, discussing Eversource's work in the area. The conversation turned to the 100 Market building, and Mr. Busby said "that he would of [sic] done things differently," in reference to the cutover. Mr. Busby stated "that he made sure that Paul knew to do it the right way In the future, meaning shut off the Main Breaker first" when performing a cutover. Mr. Busby stated that Eversource's insurance would pay for the damages caused by the cutover. A note by 100 Market's Chad Gamester is annexed hereto as Exhibit 1.

¹ The electrical principles at-issue are discussed by EDT's expert, Lee Consavage, PE, in the reports described below and annexed as Exhibit 2, Exhibit 3, and Exhibit 4.

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II. Expert analysis.

100 Market and EDT hired Lee Consavage, a Professional Engineer, to investigate what happened and why. After his thorough investigation, Mr. Consavage determined that:

1. Eversource failed to open the building's main circuit breaker, which exposed the building to power fluctuations (Exhibit 4, p. 3);
2. Eversource's cutover procedure caused single-phasing and brownouts (Exhibit 4, pp. 6-7); and
3. Surge protectors do nothing to prevent damage caused by brownouts (Exhibit 4, pp. 3-5).

Mr. Consavage's reports are annexed hereto as Exhibit 2, Exhibit 3 and Exhibit 4.

III. Settlement of claims.

Eversource settled with 100 Market Street, LLC, for the damage to its equipment. Eversource has, however, refused to settle with EDT. Eversource, without any technical backup, claimed that it cannot determine how its cutover would have damaged single-phase equipment. EDT responded with a straightforward expert opinion, explaining that cutovers cause brownouts, which damage single-phase equipment. Eversource argued, without any backup, that EDT could have avoided its damages with surge protectors. EDT responded with an expert opinion, explaining that surge protectors protect against over-voltage (surge) events but do not protect against under-voltage (brownout) events. Eversource also demanded that EDT conduct a forensic evaluation of its machines to determine the cause of the damage. Such a costly post-mortem is unnecessary, since causation and damage are apparent. EDT has documented its cost to replace the destroyed data shredders. See Exhibit 5.

Most recently, EDT asked Eversource to participate in a phone conference, for Eversource and EDT's expert to discuss causation. Initially, Eversource's adjuster, Stephen Clark, said he would discuss the matter with Eversource's Legal Department. Since then, Mr. Clark informed the undersigned that Michael Busby, the engineer in charge of the team that performed the botched cutover, will decide whether Eversource will speak with EDT.

EDT complains against Eversource because of its refusal to negotiate in good faith. The facts and principles are simple: Eversource left the building connected to mains during a cutover; cutovers cause single-phasing and brownout events; brownouts damage single-phase equipment; and EDT's equipment is inoperable. Eversource has now put Michael Busby, whose team botched the cutover, in charge of deciding whether Eversource should continue settlement negotiations. EDT is stuck in the position of trying to negotiate with the person whose negligent

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supervision caused the damage. This is unlike most situations, where a third-party insurance company negotiates the claim. Eversource, which self-insures, is attempting to adjust and negotiate a claim it caused. Worse, Eversource, a large and resourceful company, is positioning the employee-wrongdoer to negotiate.

EDT seeks your assistance in bringing this matter to a resolution. The facts are not reasonably in dispute, and the electric principles at-issue speak for themselves. EDT asks the PUC to intervene and require Eversource to resume good faith negotiations.

Thank you for your consideration of this complaint. If you have any questions, or if I can provide further information, please contact me.

Sincerely,



Jacob J.B. Marvelley

JJM/rlm

Enclosures

cc: Martin P. Honigberg, Chairman
Kathryn M. Bailey, Commissioner
Michael S. Gaiamo, Commissioner
Ensconce Data Technologies, LLC