

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 19-057

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE D/B/A EVERSOURCE ENERGY

**MOTION OF AARP TO SUSPEND TEMPORARY RATES AND
REQUIRE EVERSOURCE TO UPDATE ITS TESTIMONY IN SUPPORT
OF AN INCREASE IN DISTRIBUTION RATES**

**Order Denying Motion to Suspend Temporary Rates and Granting, in Part,
Motion to Require Eversource to Update its Testimony**

ORDER NO. 26,363

June 16, 2020

In this order, the Commission denies AARP's motion to suspend the temporary rates granted by the Commission in Order No. 26,265 (June 27, 2019). The order also grants, in part, AARP's request that the Commission require Eversource to file updated testimony in light of recent changes in the economy resulting from the Covid-19 pandemic. Based on changes in the capital market resulting from the economic effects of the Covid-19 pandemic, the Commission requires Eversource to file updated Rate of Return testimony within 30 days to reflect those changes. Any party who previously filed Rate of Return testimony may file updated testimony, provided that such testimony is filed within 30 days.

I. PROCEDURAL HISTORY

On April 26, 2019, Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource or the Company) filed its petition for a temporary increase of \$33 million in distribution revenue. Subsequently, on May 28, Eversource filed a Notice of Intent to File Permanent Rate Schedules, along with supporting testimony and related exhibits and attachments. In that filing, Eversource requested approval of an increase of approximately \$70 million in distribution revenue and a rate plan including four annual step increases based on the prior year's

capital investment. The filing included supporting testimony and related exhibits, proposed tariffs, and schedules. The Commission suspended the proposed tariffs on June 7, 2019, in Order No. 26,256, and opened the investigation into the proposed increase in distribution revenue and distribution rates. Several parties intervened in the instant proceeding, including the American Association for Retired People (AARP).¹

On June 17, 2019, the Commission issued Order No. 26,265, approving a temporary increase in distribution revenue of \$28.3 million. The Order increased the distribution charge by 8.9 percent, resulting in a 2.7 percent increase in average residential monthly bills, effective with services rendered on and after August 1, 2019.

As a result of the intervening Covid-19 pandemic and the need for parties to work remotely, Staff filed a letter on March 19, 2020, which proposed postponing the technical sessions scheduled for March 25 and 26 to the days previously reserved for hearing in mid-April. The Commission approved that revision to the procedural schedule by secretarial letter dated March 20. On March 24, Staff filed a letter with the Commission regarding an agreement reached by Eversource, Staff, and the Office of the Consumer Advocate (OCA) to extend the procedural schedule by three months, with certain conditions, to allow for additional settlement discussions. The Commission issued a secretarial letter on March 31, deeming the agreement a motion, and allowing 10 days for any party to object.

On April 17, 2020, AARP filed a motion to suspend the temporary rate approved by the Commission in Order No. 26,265, and to require Eversource to update its testimony in light of the economic changes caused by the Covid-19 pandemic. Eversource filed an objection to the motion

¹ AARP moved to intervene on December 6, 2019, and timely submitted testimony on December 18, 2019.

on April 27, and on May 1, the OCA filed a letter in support of AARP's motion. On May 4, Eversource filed a response to the OCA's May 1 letter.

On April 24, 2020, the Governor issued an executive order² (Exhibit D to Executive Order #29) that extended the Commission's ability to suspend rate schedules by six months, from 12 to 18 months. *See* RSA 378:6, I(a). The extension applies to the instant proceeding.

The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted on the Commission's website at <https://www.puc.nh.gov/Regulatory/Docketbk/2019/19-057.html>.

II. POSITIONS OF THE PARTIES

A. AARP

1. Updated Testimony

Citing the widespread economic harm resulting from the Covid-19 pandemic emergency, AARP argued that Eversource should update its filing to reflect economic conditions for the period of time that new rates would be in effect. In addition, AARP argued that the Commission should suspend the temporary rates approved by the Commission in Order No. 26,265. Motion at 1.

In support of its motion, AARP stated that the pandemic has resulted in changes to interest rates, unemployment rates, electric usage, and electric demand. AARP said that as a result, many families face problems in paying monthly bills. AARP claimed that the dramatic changes in the economy should be considered in the development of Eversource's rates. According to AARP, the revised testimony should include: the current inflation rate; a recalculation of forward-looking commodity prices and sales; revised usage projections; and other elements in the calculation of the revenue requirement. *Id.* at 2-3.

² Exhibit D to Executive Order #29, pursuant to Executive Order 2020-04, as extended by Executive Order 2020-05.

AARP concluded that the update is necessary to ensure that this proceeding results in just and reasonable rates. AARP stated that the parties need to see this updated information as soon as possible and requested that the Commission set a schedule that allows for discovery and testimony following the submission of updated testimony by Eversource.³ *Id.* at 3.

2. Suspension of Temporary Rates

AARP also requested that the Commission suspend the temporary rates approved in Order No. 26,265. AARP suggested that the statute permitting the Commission to set temporary rates also authorizes the Commission to question temporary rates when circumstances change. AARP noted that a customer using 600 kWh per month experienced a monthly bill increase of \$3.33 as a result of the temporary rates. AARP argued that the impact is now greater for customers who are working from home and paying more under the temporary rates, due to increased household usage. Claiming that customers need relief, AARP argued that the Commission should invoke its emergency authority under RSA 378:9 to suspend the temporary rate and give needed relief to customers. *Id.* at 3-5.

B. Eversource

1. Updated Testimony

Eversource agreed that the pandemic and associated economic changes could not be anticipated and that the related economic effects impact both the utilities and ratepayers. Eversource said that the Company had already undertaken steps to address the financial hardship that may be experienced by many customers. Eversource argued, however, that if the Commission should grant the relief requested by the AARP motion, the Company would be subject to unfair and unconstitutional treatment. Objection at 1.

³ The AARP motion assumes that the Commission had granted the three-month extension to the rate case as agreed to by Staff, Eversource and the OCA.

Eversource argued that the full economic effects of the pandemic would likely not be known or understood for months or years to come. Eversource said that appropriate and reasonable measures were put in place to mitigate the burden of utility bills on customers facing economic hardships. The Company cautioned, however, against making any decisions based on short-term information, because such decisions may have negative effects for customers and the utility.

Eversource said that no cause existed to compel additional testimony. While using the best information is appropriate in a rate setting, the Company said that revising testimony under current circumstances does not make any legal or practical sense. *Id.* at 2. Eversource noted that the Commission has consistently used historical test year data as a basis for the development of revenue requirements in a rate case. That fact alone, according to Eversource, discourages new testimony. Eversource also stated that, at this time, the Company cannot reasonably assess all economic impacts of the pandemic, or the measures that have been taken to assist customers who are experiencing financial difficulties. *Id.* at 3.

The Company argued that if the Commission granted AARP's motion, the effect would be to restart the rate case. Eversource noted that AARP also asked for discovery and responsive testimony on the requested updated testimony, additional steps, which would further compress time, and prejudice the Company's procedural due process rights. *Id.* at 3

Eversource pointed out the pandemic has caused economic adversity to all utilities and their customers. The Company noted that the impact to ratepayers during the pandemic was addressed by the emergency order issued by Governor Sununu prohibiting utilities from disconnecting service for non-payment, and suspending implementation of late fees on late-paid bills. *Id.* at 4. Eversource said that other measures have been taken to provide economic relief to ratepayers including: waiving security deposits for reinstatement of services for residential and business

customers; extending payment plans for residential and business customers with no down payment required; and, suspending all collection activities. *Id.* at 5.

Eversource said that it has taken those actions to ensure that customers receive essential services. Eversource warned, however, those actions could adversely affect the Company's cash flow and revenue, and will be considered by financial institutions and the credit community. According to Eversource, the result could include the inability to secure reasonably-priced capital, and limit its access to materials and supplies necessary to conduct business. *Id.* at 6. Nonetheless, the Company emphasized that such measures are causing, and will continue to cause, adverse financial impact to Eversource, even if temporary rates continue as presently constituted. *Id.*

2. Suspension of Temporary Rates

Eversource argued that, should the Commission suspend temporary rates that were approved in June of 2019, it would send a message of uncertainty to credit institutions. Eversource noted that, in Order No. 26,265, the Commission expressly found that the temporary rates were just and reasonable and in the public interest. Eversource suggested that, to the extent the Commission reviews Eversource's temporary rate in light of the pandemic, the same review should be applied to all utilities' rates. Objection at 7-9.

Eversource relied on RSA 378:9, the statute dealing with emergency rates to support its position that the Commission's authority is limited to authorizing a public utility to change rates, but does not permit the Commission to direct a utility to change rates. According to Eversource, the Commission historically exercised the emergency authority provided in RSA 378:9 in the instance where the condition of a utility was in such a state "that a reasonable person would find the affairs of this company are at such a crisis that immediate and substantial disaster threatens unless prompt relief is given." *Id.* at 10 quoting *New England Tel. & Tel. Co. v. State*, 95 N.H. 58 (1948).

Eversource said it knew of no situation where the Commission made such a finding in connection with a general public health or economic concern.

Eversource argued that if the Commission were to find the current pandemic merits a reduction in the Company's rates, such a reduction should apply to all utilities. Otherwise, approving the suspension of the Company's temporary rates would be arbitrary, and a violation of Eversource's due process and equal protection rights. *Id.* at 11.

Eversource said it had already taken appropriate measures described in its Objection to address the financial hardship of its customers during the pandemic, and requested that the Commission deny AARP's petition. *Id.*

C. Office of the Consumer Advocate

The OCA argued that the Commission should either grant the relief requested by AARP, or convene an additional prehearing conference to hear the parties on the question of how to proceed with this docket given current circumstances. According to the OCA, AARP's proposal is sensible given the governor's order extending the permissible suspension period. The OCA pointed out that not everything at issue in a rate case is historical, particularly the return on equity and projections of retail sales. The OCA asserted that the curtailment of economic activity raises the possibility that the Company's revenue requirement would be misallocated among rate classes. The OCA predicted that Eversource would update its testimony on the stand in any event, and that the Commission should instead require that update at an earlier time, to provide other parties with the opportunity to test the testimony.

The OCA asserted that Eversource's arguments against suspending temporary rates are unpersuasive because RSA 378:29 authorizes temporary rates to be terminated prior to the end of a rate case, and the purpose of the temporary rate statute was to permit reductions in rates. The OCA also argued that RSA 378:9 and relevant case law permit the Commission to decrease rates after

determining that a state of emergency exists for the public. The OCA concluded that the next appropriate step would be for the Commission to seek a consensus of the parties on how to proceed.

III. COMMISSION ANALYSIS

A. Suspension of Temporary Rates

While we recognize that customers may experience financial hardship in paying monthly bills during the pandemic emergency, we find that it would not be in the public interest to suspend temporary rates as requested. In approving Order No. 26,265, we adhered to the statutory standard in RSA 378:27 and found the temporary rates, based on the Company's books and records, to be just and reasonable and in the public interest. The temporary rates that we set are fully reconcilable. If we set the permanent rates lower than the temporary rates, then ratepayers will be refunded the difference; similarly if we set Eversource's permanent rates higher than the temporary rates, then the price volatility experienced by ratepayers will be mitigated and ratepayers will not have to pay as large a surcharge for the reconciliation. We reaffirm that our approval of temporary rates appropriately balances the interests of ratepayers and shareholders at this time.

Moreover, measures applicable to all utilities have been instituted by the Governor's Emergency Order to mitigate the financial hardship for utility ratepayers with respect to paying their monthly bills during the pandemic emergency. Those measures include: a moratorium on issuing disconnection notices and disconnecting accounts for issues related to non-payment of bills; a moratorium on service shut-offs for business and residential customers for non-payment of bills; and a moratorium on the application of late fees to late-paid bills. Those measures were designed to ensure continued electric service to customers during the pandemic emergency even as customers have difficulty paying monthly bills. Notably, those measures apply to all public utilities. We therefore decline to suspend the temporary rates for a single utility as requested.

B. Updated Testimony

While we appreciate that economic conditions have changed as a result of the pandemic, the filing of comprehensive updated testimony is not necessary or warranted as a result. In rate cases such as this, the review of revenue requirements is based on a historic test year rather than the year during which the rate case is heard. The test year is subject to audit, with appropriate adjustments for known and measurable changes. In this case, the test year is 2018. The AARP request seeks to update all testimony to reflect a period of time two years after the test year. For that reason, we decline to require that all of the previously filed testimony be updated.

We agree, however, that it is appropriate for Eversource to update its testimony on Rate of Return (ROR) and capital structure. Unlike the historic, known, and measurable costs that form the rate base; cost of capital estimates are more forward-looking. Given the changes in the financial markets alleged by AARP, we believe it is reasonable to reflect updated information based on current economic and financial conditions, including possible changes in dividend and income growth rates and/or risk premiums, as well as ROR that may have been recently approved in other jurisdictions.

We direct Eversource, and will allow other parties who previously filed testimony regarding ROR or capital structure, to update that testimony, no later than 30 days from the date of this order. In addition, we will allow parties to propound discovery on updated testimony within 7 days of its submission to the Commission, and provide 14 days for responses to discovery. We find such an update and process necessary under the changed economic circumstances.

C. Next Steps

Exhibit D to the Governor's Emergency Order #29 authorized the Commission to suspend a rate schedule for an additional 6 months. Pursuant to that Order, and in consideration of the magnitude of this case and the unforeseeable and unexpected delays related to the COVID-19

pandemic, we suspend Eversource's rate schedule for an additional 6 months, for the full 18-month period.

At present, the procedural schedule is suspended. We direct Staff to work with the parties to develop a proposed procedural and hearing schedule that takes into account our decision in this order. Despite the extended suspension period, we urge the parties to proceed as expeditiously as possible in bringing this proceeding to hearing.

Based upon the foregoing, it is hereby

ORDERED, that the American Association for Retired People's motion to suspend temporary rates is hereby DENIED; and it is

FURTHER ORDERED, that Eversource shall file updated testimony on the Rate of Return and capital structure within 30 days of the date of this order; and it is

FURTHER ORDERED, that any party that previously filed Rate of Return or capital structure testimony may update its testimony provided that the testimony is filed no later than 30 days from the date of this order; and it is

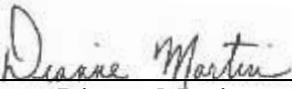
FURTHER ORDERED, that any party may issue discovery on such Rate of Return and capital structure testimony within 7 days of the date that testimony is filed; and it is

FURTHER ORDERED, that responses to any discovery shall be issued within 14 days of the receipt of such discovery; and it is

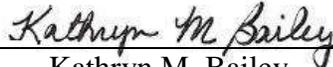
FURTHER ORDERED, that the proposed tariff pages issued May 28, 2019, with an effective date of July 1, 2019, are hereby suspended for an additional six months pending investigation and further order of the Commission; and it is

FURTHER ORDERED, that Commission Staff shall work with the parties to develop a procedural schedule for the remainder of this proceeding as soon as possible.

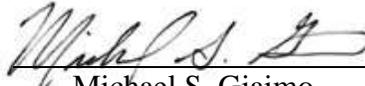
By order of the Public Utilities Commission of New Hampshire this sixteenth day of June,
2020.



Dianne Martin
Chairwoman

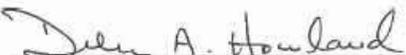


Kathryn M. Bailey
Commissioner



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Service List - Docket Related

Docket#: 19-057

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