

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

**DE 18-002**

**PUBLIC SERVICE CO. OF NEW HAMPSHIRE d/b/a EVERSOURCE ENERGY**

**2018 Energy Service Solicitation**

**SUPPLEMENTAL ORDER OF NOTICE**

This docket was opened to provide for a process and hearing on Public Service Company of New Hampshire d/b/a Eversource Energy's (Eversource) competitive solicitation of energy service for its customers who have not selected a competitive electric power supplier.

Eversource filed its initial request pursuant to Order No. 26,092 (December 29, 2017) approving the settlement agreement in Docket No. DE 17-113 specifying the method for Eversource to transition from its historical method of providing energy service from its generation assets to one based on a competitive solicitation in the energy market. Prior competitive solicitations were approved in Order No. 26,104 (February 22, 2018) and Order No. 26,147 (June 15, 2018).

This Supplemental Order of Notice is issued to schedule a hearing on Eversource's competitive solicitation for energy service to be provided to its default service customers for the period from February 1 through July 31, 2019. This Supplemental Order of Notice also schedules a separate prehearing conference to address issues raised by Eversource's filing on December 4, 2018, of a "Petition for Commission Review of Responses Received by Eversource Pursuant to RSA Chapter 362-H as Enacted by Senate Bill 365" (Petition).

In the Petition, Eversource requests that the Commission order it to enter into power purchase agreements (PPAs) with five biomass-fueled electric generators pursuant to RSA Chapter 362-H, "The Preservation and Use of Renewable Generation to Provide Fuel Diversity," enacted by the passage of 2018 N.H. Laws Ch. 379 (SB 365). The Petition was

originally docketed as DE 18-183, but that docket has been closed and the Petition will be considered in this docket pursuant to RSA 362-H:2, IV, which provides that all such PPAs “shall be subject to review by the commission for conformity with [SB 365] in the same proceeding in which it undertakes the review of the electric distribution company's periodic default service solicitation and resulting rates.” With the Petition, Eversource included: copies of its solicitations issued to the six biomass-fueled electric generation facilities that are interconnected to its transmission or distribution systems; the responses submitted to Eversource by five of the six biomass facilities; and the pre-filed testimony and attachments of Frederick B. White.

Eversource requests that the Commission issue an order determining the nature and extent of Eversource’s obligations under SB 365, taking into consideration limitations on state jurisdiction under the Federal Power Act, 16 U.S.C. §§791a, *et seq.* (FPA), and the Public Utility Regulatory Policies Act of 1978, as amended (PURPA). Eversource asserts that the Commission’s determination “should mandate such obligations and set forth the terms, conditions, and pricing of any such obligations.” In particular, Eversource proposes that the biomass-fueled electric generators be paid the “adjusted energy rate,” as defined under RSA 362-H:1, I, except during the pendency of any administrative or judicial challenge regarding the legality or enforceability of any part of SB 365. During any such period, Eversource proposes to pay only the current tariffed rate payable to “qualifying facilities” as defined in PURPA, which is generally lower than the “adjusted energy rate” under SB 365.

Eversource also requests that the Commission determine whether the obligations of eligible facilities under SB 365 include only energy, or energy and capacity. Eversource seeks as well an order that the costs of compliance with SB 365 will be recovered as part of Eversource’s stranded cost recovery as additional “Part 2” non-securitized stranded costs. Eversource further

requests that the 2019 energy service proceeding be bifurcated into two parts: the first to consider the establishment of its energy service rate effective February 1, 2019, and the second to consider matters related to SB 365 as set forth in the Petition.

Eversource's initial filing and subsequent docket filings, including the Petition, other than any information for which confidential treatment is requested of or granted by the Commission, will be posted to the Commission's website at

<http://www.puc.nh.gov/Regulatory/Docketbk/2018/18-002.html>.

Eversource's energy service rate filing raises, *inter alia*, issues related to whether the rates resulting from Eversource's request for proposals for default energy service supply are just and reasonable as required by RSA 378:5 and RSA 378:7, and whether Eversource has procured that energy service supply in a manner consistent with Order No. 26,092 and the principles of the electric utility restructuring statute, RSA 374-F:3, V(c) through (e).

Eversource's Petition raises, *inter alia*, the following issues:

- (1) whether Eversource's solicitation of electricity from eligible biomass-fueled electric generation facilities and the proposed form of PPA are in conformity with SB 365;
- (2) whether the Commission is required to approve, or mandate the execution of, PPAs between Eversource and eligible facilities under SB 365;
- (3) whether the Commission is authorized to mandate the inclusion in the PPAs of provisions not expressly referenced in or contemplated by SB 365;
- (4) whether it is necessary for the Commission to decide issues of federal preemption of SB 365 in this proceeding, and, if so, whether SB 365 is subject to federal preemption under the FPA and PURPA;
- (5) whether the obligations of eligible facilities under SB 365 include both energy and capacity, or energy only; and
- (6) whether the Commission should order in this proceeding that Eversource's costs of compliance with SB 365 be recovered as part of its stranded cost recovery as additional "Part 2" non-securitized stranded costs.

Each party has the right to have an attorney represent the party at the party's own expense.

**Based upon the foregoing, it is hereby**

**ORDERED**, that a Hearing, pursuant to N.H. Code Admin. Rules Puc 203.12, regarding Eversource's competitive solicitation for energy service to be provided to its default service customers during the period from February 1, 2019, through July 31, 2019, and the rates resulting from that competitive solicitation, be held before the Commission located at 21 South Fruit Street, Suite 10, Concord, New Hampshire, on December 18, 2018, at 9:00 a.m.; and it is

**FURTHER ORDERED**, that a Prehearing Conference, pursuant to N.H. Code Admin. Rules Puc 203.15, be held before the Commission located at 21 South Fruit Street, Suite 10, Concord, New Hampshire, on December 18, 2018, at 10:00 a.m., at which each party will provide a preliminary statement of its position with regard to the Petition and any of the issues set forth in N.H. Code Admin. Rules Puc 203.15; and it is

**FURTHER ORDERED**, that, immediately following the Prehearing Conference, Eversource, the Office of Consumer Advocate, the Staff of the Commission, and any Intervenors hold a Technical Session to review the Petition and related matters; and it is

**FURTHER ORDERED**, that pursuant to N.H. Code Admin. Rules Puc 203.12, the Executive Director shall notify all persons desiring to be heard at the hearing by publishing a copy of this Supplemental Order of Notice on the Commission's website no later than December 11, 2018; and it is

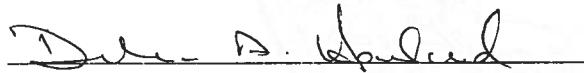
**FURTHER ORDERED**, that any of the five biomass-fueled electric generation facilities that submitted responses to Eversource's SB 365 solicitation shall be permitted to intervene in

this proceeding upon filing of an appearance and without submission of a petition to intervene consistent with N.H. Code Admin. Rules Puc 203.17; and it is

**FURTHER ORDERED**, that consistent with N.H. Code Admin. Rules Puc 203.17 and Puc 203.02, any other party seeking to intervene in the proceeding shall submit to the Commission seven copies of a petition to intervene with copies sent to Eversource and the Office of the Consumer Advocate on or before December 17, 2018, such petition stating the facts demonstrating how its rights, duties, privileges, immunities or other substantial interest may be affected by the proceeding, consistent with N.H. Code Admin. Rules Puc 203.17 and RSA 541-A:32, I (b); and it is

**FURTHER ORDERED**, that any party objecting to a petition to intervene make said objection on or before December 18, 2018.

By order of the Public Utilities Commission of New Hampshire this eleventh day of December, 2018.



Debra A. Howland  
Executive Director

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the Americans with Disabilities Act Coordinator, NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.