

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 14-120

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

**Reconciliation of Energy Service and
Stranded Costs for Calendar Year 2013**

Order Approving Settlement Agreement

ORDER NO. 25,815

September 18, 2015

APPEARANCES: Matthew J. Fossum, Esq., on behalf of Public Service Company of New Hampshire d/b/a Eversource Energy; Thomas F. Irwin, Esq., on behalf of Conservation Law Foundation; the Office of Consumer Advocate by Susan W. Chamberlin, Esq., on behalf of residential ratepayers; and Suzanne G. Amidon, Esq., on behalf of Commission Staff.

This order approves a Settlement Agreement regarding Eversource's reconciliation of its energy service costs and stranded costs with revenues received in calendar year 2013. The Settlement Agreement results in no cost disallowance to Eversource and resolves the disagreement among the parties concerning who should receive \$5.7 million remaining in certain Rate Reduction Bond (RRB) trust subaccounts. The parties agreed that Eversource is entitled to recover approximately \$2.9 million of RRB funds from ratepayers, beginning with SCRC rates effective January 1, 2016. The Company will provide a calculation of the specific amount, including interest, in its September 2015 filing for approval of 2016 energy service rates.

I. PROCEDURAL HISTORY

On May 1, 2014, Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource or PSNH) filed testimony and related schedules in support of a proposed reconciliation of revenues and costs associated with its stranded cost recovery charge (SCRC) and its energy service (ES) charge for calendar year 2013. The SCRC is the mechanism by

which Eversource recovers certain restructuring-related stranded costs as allowed under the Agreement to Settle PSNH Restructuring (Restructuring Agreement) approved by the Commission in 2000. *See PSNH Proposed Restructuring Settlement*, Order No. 23,443, 85 NH PUC 154 (April 19, 2000); Order No. 23,549, 85 NH PUC 536 (September 8, 2000); Order No. 23,563, 85 NH PUC 645 (September 29, 2000). Eversource recovers the cost of providing power from its generating units and supplemental power purchases through its ES charge.

The Office of Consumer Advocate (OCA) filed a letter of participation pursuant to RSA 363:28; and the Conservation Law Foundation (CLF) filed a motion to intervene, which was granted by the Commission in Order No. 25,689 (July 7, 2014).

In March 2015, following a period of discovery, the OCA filed the testimony of James Brennan, and Staff filed testimony of Grant Siwinski, an analyst on Commission Staff, and Michael D. Cannata, Jr., of the Accion Group (Accion), a consultancy group working on behalf of Commission Staff.

The parties engaged in settlement discussions, and on July 9, 2015, a Settlement Agreement signed by all parties was filed with the Commission. The Commission held a hearing on the Settlement Agreement on July 23, 2015. On July 24, 2015, Eversource filed a motion for confidential treatment of the following data requests that were attached to Accion's testimony: Staff 1-9, CLF 1-6, and Staff 2-27. No party objected to Eversource's motion.

II. POSITIONS OF THE PARTIES/INITIAL FILING

A. Eversource

Eversource explained that, as of competition day (May 1, 2001), the Company began to recover costs under the Restructuring Agreement. Pursuant to the terms of that Agreement,

Eversource continues to recover costs related to the generation and delivery of electricity, but the specific rate structure now in place segments recovery into various components. The four major components of that segmentation are the delivery charge, the transmission cost adjustment mechanism charge, the SCRC, and the ES rate.

The Restructuring Agreement requires Eversource to provide energy service to those customers in its franchise area who do not choose to obtain energy service from a competitive supplier. Since 2004, the ES rate for all retail customers has been based on the Company's forecast of the actual, prudent and reasonable costs of providing energy service. *See* RSA 369-B:3, IV (b)(1)(a). Eversource prepares an annual forecast, with rates for effect on a service-rendered basis, beginning January 1 of each year. Eversource includes the estimated costs and revenues in its calculation of ES and SCRC rates for the calendar year, and updates the forecast and ES rates for purposes of implementing a mid-year adjustment for effect July 1. Eversource then files the reconciliation of estimated costs and revenues with actual costs and revenues for each calendar year on May 1 of the subsequent calendar year.

This filing represents the reconciliation for calendar year 2013. Because the estimated costs have already been recovered through rates, this filing does not result in a rate change, unless there is a disallowance of cost recovery due to the imprudence of the Company in managing its generation assets or in its purchases and sale of excess energy and capacity during the calendar year.

In pre-filed testimony,¹ Eversource provided an overview of the reconciliation between the revenues and expenses reported in the Company's ES and SCRC filings for the twelve-month period from January 1 through December 31, 2013. Eversource stated that the Company experienced an under-recovery in energy service costs of approximately \$93.3 million as of

¹ Eversource's pre-filed testimony is identified as Hearing Exhibit 1.

December 31, 2013. The Company explained that the under-recovery was primarily due to deferred costs associated with the installation of the wet flue gas desulphurization system (Scrubber) at Merrimack Station. According to the filing, the costs associated with the Scrubber were incurred in excess of the temporary rate recovery, and account for \$79.9 million of the approximate \$93.3 million under-recovery for 2013. Eversource is not seeking recovery of the deferred costs associated with the Scrubber in this docket because recovery of the costs associated with the Scrubber is being considered in Docket DE 11-250.² As a result, the deferred Scrubber costs are not included in this reconciliation of 2013 energy service costs.

The following items also contributed to the under-recovery: \$6.3 million in higher-than-forecast energy costs, \$4.5 million in higher-than-forecast operation and maintenance costs, and \$2.6 million in Regional Greenhouse Gas Initiative (RGGI) auction proceeds that were expected to be received in 2013 but were not received until 2014.

The SCRC recovers costs categorized as “stranded” by RSA Chap. 374-F and Chap. 369-B. PSNH’s stranded costs initially consisted of three types of costs (Parts 1, 2 and 3). Part 3 costs were fully recovered as of June 30, 2006. Part 1 costs are those costs that have been securitized through the issuance of RRBs and consist of the over-market portion of Seabrook regulatory assets, a portion of the Company’s share of Millstone 3, and certain financing costs that were incurred in the procurement of the RRB financing. Part 1 recovery ended in May 2013 when the RRBs were fully amortized. Part 2 stranded costs include “ongoing” costs consisting of the over-market value of energy purchased from Independent Power Producers (IPPs), the up-front payments made for IPP buy-downs and buy-outs previously approved by the Commission, Eversource’s share of the present value of the savings associated with those buy-

² On January 15, 2015, the Commission issued Order No. 25,755, granting a joint motion to stay DE 11-250, the docket designated for consideration of Scrubber costs, pending the consideration of a joint Settlements Agreement filed in DE 14-238.

down and buy-out transactions, and a return on the unpaid contract obligations to certain regional Yankee Atomic nuclear plants, net of deferred taxes.

Eversource reported a \$6.8 million under-recovery in the SCRC for calendar year 2013. The under-recovery consists of \$5.7 million in Part 1 costs, and \$1.1 million in higher-than-forecast Part 2 costs. Eversource explained that, pursuant to Order No. 25,532 (June 27, 2013) the Company had agreed to refund \$5.7 million that remained in certain RRB trust subaccounts to customers, but reserved the right to request recovery of the money in its 2013 reconciliation proceeding, the instant docket. In its filing, Eversource claimed that the Company is entitled to the entire \$5.7 million through an adjustment to the SCRC rate because the subaccount in question was funded with company money. Eversource provided testimony and related exhibits in support of its claim.

Eversource's pre-filed testimony also described how the Company met its energy and capacity obligations during 2013. Eversource explained that it meets its requirements through its owned generation, purchases mandated by the Public Utility Regulatory Policy Act (PURPA) under short-term rates and long-term rate orders, and supplemental purchases of energy and capacity from the market. During 2013, the Company's available generation capacity was about 1,256 megawatts (MW) for the summer months.

The portfolio of energy supply consists of the following resource groups: 57 MW in hydroelectric power from 9 stations; 576 MW from the burning of coal and wood at the Merrimack and Schiller stations; 419 MW in gas and oil combustion at Newington and Wyman, 83 MW from combustion turbines (5 units); 59 MW from biomass, including from Burgess Biopower; 3MW from Lempster, a wind-powered facility; 33 MW from numerous PURPA-

mandated purchases; 10 MW from one IPP buy-out replacement contract; and 17 MW from certain wood independent power producers.

The Company makes supplemental purchases to meet its customers' energy requirements cost effectively. Eversource purchased approximately 760 gigawatt hours (GWh) of peak energy, at an average cost of \$47.99 per MWh, and 611 GWh of off-peak energy at an average cost of \$38.54 per MWh. During 2013, Eversource also sold power when its supply exceeded its energy needs. Approximately 200 GWh of peak energy were sold at an average price of \$87.94 per MWh, and 256 GWh of off-peak energy were sold at an average price of \$75.53 per MWh. The net effect of Eversource's energy purchases and sales is used to reduce the ES rate.

In 2013, Eversource met its capacity requirements from generation resources, including its owned generation assets, non-utility IPPs (including Lempster), and Hydro-Quebec Interconnection capacity credits. Eversource's owned generation resulted in \$33.7 million which was credited to the ES rate.

Regarding generating unit operation, the Company reported that it successfully managed both planned and forced outages during 2013. Eversource provided a list of all unplanned outages that took place during the period January 1 through December 31, 2013, for its fossil, hydro, and biomass units; and for NextEra's Wyman Station Unit No. 4, in which Eversource has about 4% ownership interest. Finally, Eversource reported that it had acquired the ability, in-house, to conduct transient stability analysis,³ and that it continued to conduct hazard tree inspections along its circuits, consistent with prior orders of the Commission. *See* Order No. 25,647 (April 8, 2014).

³ Transient stability is the ability of a power system to return to stable condition following a relatively large disturbance arising from very general situations, such as switching "on" and "off" circuit elements. More often than not, power generation systems are subjected to faults of this kind, and through a transient stability analysis, power engineers are more familiar with the stability conditions of a particular system, improving reliability.

B. Office of Consumer Advocate

Mr. Brennan's testimony for the OCA argued that Eversource's Merrimack generation units were not fully used and useful during 2013, because, during several months of the year, the costs of power produced by those units exceeded the market cost of power. The OCA asserted that Eversource should bear some risk for costs to operate the units when they were uneconomic, and recommended that the Company be denied approximately \$5.3 million in return on investment to reflect that risk.

C. Commission Staff

Staff filed the testimony of Accion which summarized the operation of Eversource's generation units, and reviewed Eversource's purchases and sales of power and capacity. In general, Accion found that Eversource acted reasonably in operating its generation plants, and in its purchases and sales of power and capacity.

Mr. Siwinski's testimony addressed the disposition of the \$5.7 million in RRB trust subaccount funds. Mr. Siwinski argued that, based on review of the PSNH Restructuring Settlement Agreement and the related financing order, the money had been appropriately credited to customers.

III. SETTLEMENT AGREEMENT

In the Settlement Agreement, Eversource, the OCA and Staff agreed that the Company made sound management decisions with respect to capacity and energy purchases, generation management, operation costs and generation dispatch in 2013. As a result, Eversource, the OCA, and Staff agreed that Eversource would not experience a disallowance of replacement power costs associated with any outages during that period. The parties further agreed that,

except for the SCRC rate adjustment discussed below, Eversource is not required to make any adjustments to ES rates as a result of this reconciliation.

In a prior reconciliation proceeding, Staff had recommended that Eversource acquire the capability to perform transient stability analysis in-house. Eversource developed that ability, has performed a number of studies on transient stability on its low voltage systems, and intends to continue to perform the analysis going forward. As a result, the Settlement Agreement closes this outstanding issue.

The Settlement Agreement also requires the Company to continue to assess hazard trees within its rights of way, and to trim or remove those trees which pose a threat to its equipment. In the Settlement Agreement, Eversource committed to continue this work and to provide information in future reconciliation dockets regarding the work performed.

Finally, Eversource, the OCA, and Staff agreed that Eversource will recover half of the \$5.7 million in disputed RRB trust subaccount funds, plus interest, effective January 1, 2016.

Eversource, CLF, the OCA, and Staff signed the Settlement Agreement. Although CLF was a signatory to the Agreement for purposes of resolving the proceeding, CLF did not take a position on the specific terms of the Settlement Agreement.

IV. COMMISSION ANALYSIS

A. Motion For Confidential Treatment

Eversource's motion for confidential treatment pertains to three data request responses that were attached to Accion testimony filed by Staff. We note that these responses were identified as confidential at the time the Company answered the data requests. In its Motion for Confidential Treatment, Eversource asserts that its responses contain confidential commercial information eligible for protection from disclosure under RSA 91-A:5.

The first response for which Eversource seeks confidential treatment replies to Staff 1-9. Staff 1-9 sought supporting calculations for fuel price adjustments for certain biomass-fired generating facilities from which Eversource purchases electricity pursuant to power purchase agreements (PPAs). Eversource provided a confidential attachment to the data request with a non-confidential, brief explanation of how the attachment was structured.

The second data request, Staff 2-27, asked for “a copy of the document used by PSNH for guidance in its supplemental purchase and sales during 2013.” In response, Eversource provided a confidential attachment outlining its internal guidance for supplemental purchases and sales.

The third data request, CLF 1-6, requested that the Company “provide a schedule identifying typical or average weekly offer/dispatch prices used by PSNH (internally or for market bidding purposes) for each PSNH fossil-fired generation unit and the corresponding weekly average day-ahead and real-time energy market prices.” In response, Eversource produced a confidential attachment outlining typical offer/dispatch prices on each of its generating units.

New Hampshire’s Right-to-Know Law, RSA 91-A, provides each citizen the right to inspect all public records in the possession of the Commission. *See* RSA 91-A:4, I. The statute contains an exception, invoked here, for “confidential, commercial or financial information.” RSA 91-A:5, IV. We have ruled on motions for confidential treatment in the context of confidential, commercial and financial information regarding utilities and their affiliates on numerous occasions. *See, e.g., Northern Utilities, Inc.*, Order No. 25,330 (February 6, 2012) *EnergyNorth Natural Gas, Inc. d/b/a National Grid NH*; Order No. 25,280 (October 25, 2011); *Public Service Company of New Hampshire*, Order No. 25,187 (December 29, 2010).

Following the approach used in those cases, we consider the three-step analysis applied by the New Hampshire Supreme Court in *Lambert v. Belknap County Convention*, 157 N.H. 375 at 382-383 (2008), in determining whether the information identified should be deemed confidential and private. First, we determine whether there is a privacy interest to protect. Second, when a privacy interest is at stake, we assess whether a public interest is served by disclosure. Disclosure should inform the public of the conduct and activities of its government; if the information does not serve that purpose, disclosure is not warranted. *Id.* at 383. If we find a public interest in disclosure, the third step requires us to determine whether the interest in public disclosure outweighs the privacy interests in non-disclosure.

1. Staff 1-9

As stated above, data request Staff 1-9 requested the production of fuel pricing related to certain biomass-fueled PPAs. We have reviewed the confidential response to Staff 1-9. We find that public disclosure of the requested fuel pricing information could impair the ability of Eversource to negotiate prices in future agreements. On that basis, we find a privacy interest in the response to Staff 1-9.

The second step in the analysis requires us to determine whether there is any public interest in disclosure. Because Eversource is authorized by this Commission to recover the PPA costs through the energy service rate, there is a measure of public interest in the wood fuel prices, because disclosure sheds light on the process by which the Commission approves electric service rates.

The third step requires us to determine whether the public interest in disclosure outweighs the privacy interest in non-disclosure. According to Eversource, the privacy interest in non-disclosure outweighs any public interest and confidential treatment of the response to

Staff 1-9 is proper. In Order No. 25,294 (November 23, 2011), in which we approved the PPAs at issue in Staff 1-9, we found that disclosure of the fuel prices could undermine the generators' ability to negotiate with wood suppliers for the lowest wood prices which, in turn, would harm the generators' competitive position with respect to obtaining fuel supply, and thereby potentially cause Eversource ratepayers to pay more for energy under the PPAs than they otherwise would. *Id.* at 14. Nothing has occurred since that ruling to change the conclusion. Because disclosure of the fuel prices could undermine the generators' ability to negotiate for the lowest possible wood prices, resulting in higher prices for Eversource's energy service customers, we find that the privacy interest in the responses to Staff 1-9 outweighs the public interest in the information. We therefore grant the motion to protect as confidential the response to Staff 1-9 that was provided on a confidential basis.

2. Staff 2-27

In response to Staff 2-27, which requested a copy of the document used by Eversource in its supplemental purchases and sales during 2013, Eversource provided a confidential attachment outlining its internal guidance. Eversource claims that its strategies to maximize its bargaining power with market participants, which is the basis of its internal guidance, is private and should not be made publicly available.

As the first step of our analysis, we determine whether there is a privacy interest in the confidential information supplied in response to Staff 2-27. We have reviewed the internal guidance and find that Eversource has a privacy interest in this material. Disclosure of the Company's purchase and sale strategy would provide suppliers with information that would impede Eversource's ability to negotiate market transactions in the best interest of its energy service customers.

The second step requires us to consider whether there is a public interest in the information claimed as confidential. As with the Staff 1-9, we recognize that purchases and sales of supplemental power affect rates for Eversource's energy service customers, which we have the duty to review and approve, and thus the public has an interest in disclosure. Having so found, we move to the third step to determine whether the public interest in disclosure outweighs the privacy interest held by Eversource in the internal guidance document. We agree with Eversource that the disclosure of the information could damage Eversource's ability to negotiate with market participants to the disadvantage of Eversource's customers. On that basis, we grant the motion for confidential treatment of the response to Staff 2-27.

3. Staff 1-6

CLF 1-6 requested that Eversource "provide a schedule identifying the typical or average weekly offer/dispatch prices used by [the Company] (internally or for market bidding purposes) for each fossil-fired generating unit and the corresponding weekly average day-ahead and real-time energy market prices."

In response to the request, Eversource provided a confidential attachment outlining typical offer/dispatch prices on each of its generating units. Eversource notes that the information at issue in this response is similar to that which is, as a matter of course, afforded confidential treatment in "routine filings" under New Hampshire Code Admin. Rules Puc 201.06(a)(15) g., h. and i. in that the information concerns the relative costs and economics of operating Eversource's generating plants to provide default service.⁴ Eversource contends that it has a privacy interest in the information because release of the information to the public will

⁴In default service proceedings, Puc 201.06(a) (15), g., h. and i. recognize the confidentiality of fuel supplier contracts, commodity and fuel pricing, and planned generation plant maintenance schedules.

place Eversource at a disadvantage in bidding its generating units into the market by providing other generators with information about the costs of Eversource's generation operations.

Eversource acknowledges that there may be some public interest in disclosure of the information, because the costs of generating power are recovered through its energy service rates. Nonetheless, Eversource asserts that the Commission has previously concluded that keeping information about the operation of its generating units confidential may help produce lower rates, and therefore the public interest in disclosure does not outweigh the benefits of confidentiality. *See Public Service Company of New Hampshire, Order No. 25,187* (Dec. 29, 2010) at 9-10. If such information were publicly disclosed, Eversource suggests that it would be impeded in its efforts to effectively control costs for customers.

As required in the first step of the analysis, we have reviewed the responsive information. Public disclosure of the information could negatively affect Eversource's energy service customers by harming Eversource's ability to negotiate market agreements that are beneficial to customers. On that basis, we find that Eversource has a privacy interest in the response.

Under the second step of the analysis, we recognize that there is some public interest in the response, because Eversource's costs of generation are recovered from its energy service customers, and thus implicates the Commissions' authority to review and approve energy service rates. Under the third step, we find that the information is sensitive information related the operation of Eversource's generation units, and that if competitive suppliers had the information, the result could impede Eversource's ability to negotiate energy and purchase sales that are beneficial to customers. We further find that the privacy interest in keeping the information confidential outweighs the public's interest in its disclosure and, therefore, we grant confidential treatment of the response to data request CLF 1-6.

B. Settlement Agreement

Based on the Restructuring Agreement with PSNH, *see PSNH Proposed Restructuring Settlement*, Order No. 23,563, 85, NH PUC 645 (September 29, 2000); Order No. 23,549, 85 NH PUC 536 (September 8, 2000); Order No. 23,443 85 NH PUC 154 (April 19, 2000), which resulted *inter alia* in the Commission issuing a financing order that securitized certain of Eversource's recoverable stranded costs, Eversource is obligated to use its generation fleet for the provision of its energy service and may recover its "actual, prudent and reasonable costs" in connection with such use of these facilities. RSA 369-B:3, IV(b)(1)(A) (noting that this obligation remains effective until such time as PSNH may divest its generation fleet). To the extent that Eversource procures retail energy from other sources, we review the prudence of those costs as well. *See* RSA 369-B:3, IV(b)(1)(A).

Pursuant to RSA 541-A:31, V(a), informal disposition may be made of any contested case at any time prior to the entry of a final decision or order, by stipulation, agreed settlement, consent order or default. N.H. Code Admin. Rules Puc 203.20(b) requires the Commission to determine, prior to approving disposition of a contested case by settlement, that the settlement results are just and reasonable and serve the public interest. In general, the Commission encourages parties to attempt to reach a settlement of issues through negotiation and compromise, as it is an opportunity for creative problem solving, allows the parties to reach a result more in line with their expectations, and is often a more expedient alternative to litigation. *EnergyNorth Natural Gas, Inc. d/b/a National Grid NH*, Order No. 25,202 (March 10, 2011) at 18. Even when all parties join a settlement agreement, however, the Commission cannot approve it without independently determining that the result comports with applicable standards.

Id. Because the instant Settlement pertains to a rate case, the underlying standard to be applied is whether the resulting rates are just and reasonable. RSA 378:7.

We have reviewed the Settlement Agreement, the testimony of the parties and the record, and based on our review, we have determined that the Settlement Agreement is a just and reasonable resolution of the issues identified in that agreement and we approve the Settlement Agreement. This proceeding was conducted to review the Company's operation of the plants in 2013 and to determine whether the costs that it incurred were the "actual, prudent and reasonable costs" consistent with the requirements of RSA 369-B:3, IV(b)(1)(A). The Settlement Agreement meets that standard.

We understand that, pursuant to the Settlement Agreement, Eversource will begin to recover a portion of the disputed RRB subaccount funds beginning with rates effective January 1, 2016, and direct the Company to file an appropriate tariff within 30 days of the date of this Order.


Based upon the foregoing, it is hereby

ORDERED, Eversource's motion for confidential treatment is hereby GRANTED; and it is


FURTHER ORDERED, that the Settlement Agreement signed by Eversource, CLF, the OCA and Staff is hereby APPROVED; and it is

FURTHER ORDERED, that Eversource shall file a tariff in compliance with this order pursuant to New Hampshire Code Admin. Rules Puc 1603 when it files changes to the ES and SCRC rates for calendar year 2016.

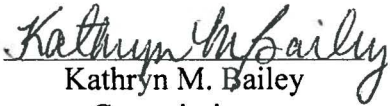
By order of the Public Utilities Commission of New Hampshire this eighteenth day of
September, 2015.



Martin P. Honigberg
Chairman

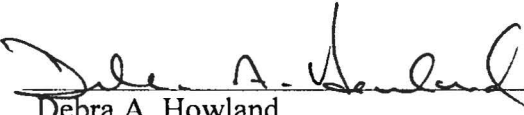


Robert R. Scott
Commissioner



Kathryn M. Bailey
Commissioner

Attested by:



Debra A. Howland
Executive Director