

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 17-124

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

Sale of Generation Facilities

Order Denying Motion for Rehearing and Stay

ORDER NO. 26,063

October 11, 2017

In this order, the Commission denies rehearing of Order No. 26,057 (September 19, 2017), because the Municipal Intervenors did not cite facts not considered by the Commission in its initial decision and did not identify any error of law; however, through this order the Commission allows parties that sign a nondisclosure agreement additional access to confidential documents to aid their presentations at hearing only.

I. PROCEDURAL HISTORY

The Commission opened this docket with an order of notice on August 3, 2017, and held a prehearing conference on August 18, 2017.¹ Following written comments on confidential treatment of various categories of auction data, the Commission issued Order No. 26,057 on September 19, 2017 (Confidentiality Order). On September 28, 2017, the City of Berlin and the Towns of New Hampton and Bristol (Municipal Intervenors) filed a joint motion for rehearing of the Confidentiality Order and stay of the proceeding. On October 4, 2017, the Conservation Law Foundation (CLF) filed a letter supporting the Municipal Intervenors' arguments.

¹ For a more detailed description of the procedural history, see Order No. 26,057 (September 19, 2017).

II. POSITIONS OF THE PARTIES AND STAFF

A. Municipal Intervenors

The Municipal Intervenors objected to the confidential treatment of bidder identities, bid amounts, and bid allocations of losing bidders. The Municipal Intervenors also objected to the Commission's restriction on their ability to copy confidential documents for use in pre-filed testimony, hearings, or other related litigation and appeals.

The Municipal Intervenors' arguments on rehearing can be summarized as follows:

(1) the Commission overstated the confidentiality interests of participants in the auction process and understated the public's interest in disclosure, and thereby failed to properly balance those interests under RSA 91-A:5, IV; (2) the Confidentiality Order is contrary to Part I, Article 8, of the New Hampshire Constitution, which the Municipal Intervenors claim requires openness of records in administrative proceedings; and (3) the limitations that the Commission placed on the copying and use of confidential documents at hearing violate the Municipal Intervenors' due process rights, and the spirit and intent of the settlement agreements in Docket No. DE 14-238.

The Municipal Intervenors contend that the Commission erred in its assessments that:

(a) a robust commercial auction process that maximizes auction value depends upon the confidential treatment of bidder communications, identities, and bid terms; (b) if the process were not protected from disclosure, J.P. Morgan Securities, LLC (J.P. Morgan or JPM) would risk less participation in future auction processes and a diminution of its business activity; (c) the bidding strategy and business goals of participating bidders are proprietary and competitively sensitive; and (d) Eversource and prospective owners of the generation assets being sold would

be harmed in competitive energy markets by disclosure of the generation assets' financial and operational data.

The Municipal Intervenors argue that the bid process cannot be harmed at this point, because final, binding bids have already been submitted. They assert that confidentiality must not be important to the process, because confidentiality agreements were not entered into prior to bidding and confidentiality was not sought until after bids were tendered. They also believe that JPM has no interest in confidentiality, because the company was hired to assist a government agency and there is no basis in the law to deny disclosure based on JPM's business interests. Even if JPM does have such interests, the Municipal Intervenors argue that they should have been addressed at the outset of the process rather than at the end. The Municipal Intervenors find it difficult to ascertain what financial harm might befall Eversource given the relatively short time that Eversource is expected to continue to own generation assets. With regard to the interests of bidding parties, the Municipal Intervenors argue that because the bidding parties have not been named, the bidding parties' interests are merely theoretical. Also, the Municipal Intervenors argue that municipalities are not competitors in electricity markets and therefore cannot exploit the bidders' information for any business advantage. Further, the Municipal Intervenors claim that they can sign a non-disclosure agreement and accordingly will protect the confidential information.

The Municipal Intervenors claim that the Commission made only a cursory finding that the public has an interest in disclosure. The Municipal Intervenors claim that the public interest in disclosure is extremely high given the major impact that this proceeding can have on electric rates and the direct impact that it may have on the tax rates for the host communities.

The Municipal Intervenors conclude that the Commission failed to properly balance the public interest in disclosure with the privacy interest because the Commission failed to “strike the proper balance” under RSA Chapter 91-A in favor of disclosure. They also conclude that the Commission did not “pursue the least restrictive means available to protect” the privacy interests at stake because restrictions on access and copying only serve to prohibit the Municipal Intervenors’ meaningful participation in this proceeding. Finally, the Municipal Intervenors argue that the Commission erred by failing to provide a date by which confidential treatment of the auction data will sunset.

The Municipal Intervenors argue that Part I, Article 8, of the New Hampshire Constitution guarantees the public availability of information in quasi-judicial proceedings. They contend that the Commission did not place the burden of proof on the party seeking non-disclosure, did not properly weigh the private and public interests associated with disclosure, and imposed restrictions that are not necessary to safeguard the protected information.

Finally, the Municipal Intervenors argue that they cannot effectively participate in the proceeding and protect their interests because the Commission restricted their ability to copy confidential documents. They also note that other parties such as JPM and Eversource will have full access to all confidential documents at hearing while they will not. Instead, the Municipal Intervenors believe they will be limited to their notes on the confidential documents for use in technical sessions and at hearing. They maintain that this type of disparate treatment is without basis and unfair, particularly because, in their view, they have a “preferred status in this docket pursuant to the [settlement] Agreements [in Docket No. DE 14-238].”

B. Conservation Law Foundation

CLF takes the position that the Municipal Intervenors raised valid and important concerns in their motion regarding their ability to cross-examine witnesses and effectively participate in these proceedings. CLF asked for a reasonable accommodation to copy confidential documents, subject to a confidentiality agreement.

C. Eversource

Eversource states that the Municipal Intervenors have merely repeated the written and oral statements they previously provided. Eversource argues that the Municipal Intervenors' motion should be denied on that basis alone.

Eversource also argues that the Municipal Intervenors mistakenly conflate their privileged position in the bidding process, which was contemplated by the settlement agreements in Docket DE 14-238, with a privileged intervenor status in this docket, which status Eversource states does not exist. Eversource characterizes the Municipal Intervenors' desire to both participate in the bidding process and to learn the details of the losing bidders' confidential bid information as "outrageous."

Eversource points out that the primary goals of RSA 369-B:3-a, II and the settlement agreements were twofold: (1) to maximize the transaction value of divestiture and minimize stranded costs for the economic benefit of Eversource retail customers; and (2) to finish the process of establishing a competitive energy market, while providing enumerated employee and host community protections. According to Eversource, the host community protections offered municipalities the ability to participate in the auction as bidders and to receive tax stabilization payments in the event the sales price of an asset is less than that asset's assessed tax value. Eversource points out that the settlement agreements do not call for the maximization of

municipal property tax bases. Tax bases are protected for all municipalities through maximization of transaction value without giving any one municipality a special preference for the maximization of its tax base.

Eversource maintains that there is an absolute need to prevent losing bid information from entering the public domain. According to an Eversource witness in Docket DE 14-238, “Bidders must be afforded confidential treatment and know that the competitive advantage they bring to the table will not be shared with other bidders.” Eversource Objection at 12 (quoting Direct Testimony of John J. Reed dated July 6, 2016, Docket No. DE 14-238, “Determination Regarding PSNH’s Generating Assets,” at p. 16).

Eversource distinguishes the Municipal Intervenors’ argument under Part I, Article 8, on the basis that the documents the Commission has determined to be exempt from disclosure are not “governmental records,” but business records relating to a private sale by a private company. The company also notes that the Supreme Court has recognized, in discussing Part I, Article 8, that confidential, commercial, and financial information have historically not been open to the public.

Eversource points to a case cited by the Municipal Intervenors² for the proposition that the information protected by the Confidentiality Order is a trade secret, protected from disclosure under RSA 350-B:2, I and RSA 91-A:4, I. Eversource argues that losing bidders have a reasonable expectation of confidentiality, and that it was not necessary for them to seek or to be promised confidentiality because disclosure of trade secrets, including contract bids, is prohibited.

Eversource argues that the Municipal Intervenors are competitors in the electric markets as evidenced by their desire to participate in the bidding process, a New Hampshire statute

² *CaremarkPCS Health, LLC v. New Hampshire Dep’t of Admin. Servs.*, 167 N.H. 583, 590 (2015).

giving them a mechanism to purchase generation assets, and a history of obtaining valuations of facilities as a prelude to the municipal purchase of such assets. Eversource also points out that the Municipal Intervenors have made it clear that their motive is to maximize property tax revenues from assets within their borders, which they can do by either having access to confidential bid information or by delaying the sale of those assets.

Eversource argues that the Commission has broad discretion and the authority to determine the procedures that govern hearings, the types of evidence it will entertain, and the degree of protection to be provided to confidential materials. According to Eversource, the Municipal Intervenors' claims of prejudice are speculative and hypothetical, and that the procedures imposed by the Commission do not violate due process.

Last, Eversource objects to any stay of the proceedings. Eversource claims that a delay in the process may result in the need to repeat the auction process because bidders cannot be expected to hold their pricing through an appeal. Delay would also cost ratepayers, as the price paid for assets would diminish over time, and ratepayers would have to pay material and significant carrying costs. In addition, a stay would delay the refinancing of stranded costs, resulting in consumers paying additional tens of millions of dollars. Eversource argues that delay would be contrary to the legislative finding that "time is of the essence" with respect to this divestiture.

III. COMMISSION ANALYSIS

The Commission may grant rehearing or reconsideration for "good reason" when the moving party demonstrates that the decision is "unlawful or unreasonable." RSA 541:3, RSA 541:4; *see Rural Telephone Company*, Order No. 25,291 at 9 (November 21, 2011). Good reason exists if there are matters that the Commission "overlooked or mistakenly conceived in

the original decision,” *Dumais v. State*, 118 N.H. 309, 311 (1978) (quotation and citation omitted), or if the movant presents new evidence not previously available, *Hollis Telephone, Inc.*, Order No. 25,088 at 14 (April 2, 2010). A motion for rehearing that merely restates prior arguments and asks for a different outcome will fail. *Public Service Co. of N.H.*, Order No. 25,168 at 10 (November 12, 2010).

The Municipal Intervenors essentially repeat their prior arguments regarding the confidentiality of auction-related information or raise issues that they could have raised in the first instance. We understand that they have multiple disagreements with our factual conclusions regarding the interests involved and our conclusion regarding their relative weight. We are not, however, persuaded to reconsider our decision that the public’s interest in the disclosure is outweighed by the interest in protecting the “confidential, commercial, and financial” information of auction participants. The Municipal Intervenors overlook that this proceeding may yet result in a failed auction of one or more assets, and that JPM and all bidders may need to continue the auction process for some time to come. They also overlook that all harm that will flow from the disclosure and delay they request would be visited on Eversource customers. Unnecessary delay alone could result in tens of millions of dollars in costs to Eversource customers.

We will not endanger JPM’s and Eversource’s ability to attract robust bids from a wide pool of participants during this process or to exchange information freely with bidders to refine and improve upon those bids. Given the overlay of state regulation on this otherwise private sale, we find that the auction information we found to be confidential in Order No. 26,057 is exactly the type of confidential information that RSA 91-A:5, IV was designed to protect. *Cf. Hampton Police Assoc. v. Town of Hampton*, 162 N.H. 7, 14 (2011) (confidential information

should not be disclosed when it would: (1) impair the information holder's ability to obtain necessary information in the future; or (2) cause substantial harm to the competitive position of the person from whom the information was obtained); *see also Granite State Electric Company d/b/a National Grid*, Order No. 24,764 (June 22, 2007) (where disclosure of commercially sensitive bid information could harm customers, balance tips away from public's interest in disclosure and in favor of protecting bid information.).

With regard to the Municipal Intervenors' constitutional argument under Part I, Article 8, of the New Hampshire Constitution, we note that they have placed a constitutional gloss on their argument for the first time on rehearing. Nonetheless, their substantive arguments under Part I, Article 8, are the same on rehearing as in their original comments, rely upon the same case law, and amount to no more than a disagreement with our balancing and conclusion. We therefore deny rehearing as to our decision that the information identified in Order No. 26,057 is protected from public disclosure.

We turn to the Municipal Intervenors' and CLF's argument that the restrictions we placed on the review, copying, and use of confidential information violates their due process rights. We note that the Municipal Intervenors and CLF have not cited to any constitutional provision or case law to support their position, and we remain unconvinced that the limitations we have placed on the review and copying of confidential information deny any party constitutional due process or the ability to "effectively participate" in these proceedings.

We are persuaded, however, that our hearings in this matter will be more efficient if parties that sign nondisclosure agreements are permitted to have and make copies of certain, but not all, materials for the purpose of preparing hearing exhibits prior to hearing. We are also persuaded by the Municipal Intervenors' misunderstanding of the Confidentiality Order that

limited clarification is required.³ Accordingly, we alter Order No. 26,057 and direct that all parties that sign the attached nondisclosure agreement be provided with one paper copy of bidder instruction letters, if filed; the confidential information memorandum; JPM's first round indicative bid summary; the final bid instruction letters; and JPM's analysis of final bids. Parties may make paper copies of these materials only as necessary to efficiently present their case. Parties may not make electronic copies of confidential materials. All identifying information for losing bidders and final bid packages shall remain subject to the limitations stated in Order No. 26,057. We clarify that one full copy of each final bid package, redacted for identifying information of losing bidders, will be made available to any witnesses questioned on the materials and one copy of the same will be made available to attorneys for their use in the hearing room. If a party wishes to submit portions of a final bid package into evidence, arrangements will be made during the hearing to submit those pages as an exhibit. For purposes of filing motions for rehearing or an appeal, parties may review the bid packages at the Commission's offices and petition to make copies of selected pages for those purposes. We caution all parties that the confidentiality of bidding information is integral to the successful divestiture of Eversource's generation assets, and that the price to be paid by any party that mishandles the information could prove very high indeed.

Last, we deny the Municipal Intervenors' request to place a time limitation on the confidentiality of the information at issue. At this time, we cannot determine when, if ever, the balance will tip back in favor of public disclosure. We will revisit the issue in future whenever we receive a request for the information. We also deny the Municipal Intervenors' request for a

³ The Municipal Intervenors misunderstood the Confidentiality Order insofar as they believed that they would have only notes from which to cross-examine JPM witnesses, while those witnesses and their counsel would have full access to all documents. Our intent, which may not have been clear in the Order, was to have full copies of all documents available for use in the hearing room.

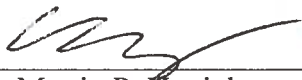
stay of this proceeding. Whether their request is for the purpose of delay or the purpose of protecting their tax bases is immaterial. We remain under legislative and settlement-based directives to expedite this proceeding. We also remain convinced that benefits to ratepayers will be maximized by the prompt divestiture of PSNH's generation assets and securitization of stranded costs.

Based upon the foregoing, it is hereby

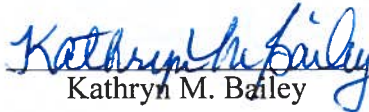
ORDERED, the Municipal Intervenor's Joint Motion for Rehearing and Stay is hereby DENIED; and it is

FURTHER ORDERED, that parties wishing to view confidential information must first execute the attached non-disclosure agreement and follow the viewing and copying procedures outlined in Order No. 26,057 as clarified and modified by this Order.

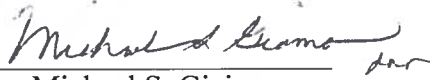
By order of the Public Utilities Commission of New Hampshire this eleventh day of October, 2017.



Martin P. Honigberg
Chairman

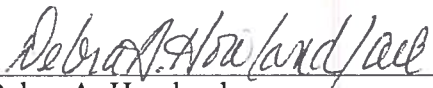


Kathryn M. Bailey
Commissioner



Michael S. Giaimo
Commissioner

Attested by:



Debra A. Howland
Executive Director

NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

Pursuant to the New Hampshire Public Utilities Commission's (Commission) order on Confidential Auction Data, Order No. 26,057, Sept. 19, 2017, in consideration for and as a condition of the J.P. Morgan Securities, LLC (JPM) and/or the Commission furnishing (or causing to be furnished) to you certain information concerning the auction (Auction) and the generation facilities (Assets) owned by Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource), you hereby agree to hold and keep such information confidential in accordance with the following terms and conditions of this agreement (the "Agreement"):

1. Confidential Material

(a) As used herein, the term "Confidential Material" refers to (i) information of whatever nature relating to Eversource or the Assets, or relating to the Auction conducted by JPM or the bidders participating in the Auction, which you obtain either in electronic format, in writing, or orally from or pursuant to discussions with (A) Eversource or any of its owners, affiliates, directors, officers, employees, agents, investment bankers, attorneys, financiers, accountants, or any other representatives or advisors (collectively, the "Eversource Representatives"); or (B) JPM, the exclusive auction advisor selected by the Commission with respect to the Auction and sale of the Assets (the "Auction Advisor"), or any affiliates, directors, officers, employees, agents or other representatives of the Auction Advisor; or (C) the Commission or the Commission Staff or the Commission's outside attorneys; (ii) any and all other confidential or proprietary, financial, technical, commercial, or other information concerning Eversource's businesses and affairs or the businesses or affairs of any bidders or potential bidders in the Auction, that may be provided or made available to you directly or indirectly by or on behalf of Eversource or the Auction Advisor or the Commission in connection with the regulatory proceeding to review the results of the Auction; and (iii) all notes, summaries, forecasts, analyses, compilations, studies, or other documents made by you or your Representatives (as defined below), or received by you or your Representatives directly or indirectly from Eversource, the Auction Advisor, or the Commission, that contain or reflect, in whole or in part, confidential information described immediately above; in the case of each clause above, (iv) in whatever the form or storage medium, (v) whether or not such information is or was provided prior to or subsequent to the date of this Agreement, and (vi) whether or not such information is marked "Confidential" or bears a similar restrictive legend or other confidential designation.

(b) The term "Confidential Material" does not include information which (i) is or becomes generally available to the public other than as a result of a disclosure by you or your Representatives in violation of the terms and conditions hereof; (ii) was available to you on a non-confidential basis prior to its disclosure to you directly or indirectly by or on behalf of Eversource, the Auction Advisor, or the Commission; (iii) becomes available to you from a source other than Eversource, the Eversource Representatives, the Commission, the Commission Staff, or the Commission's outside attorneys, in connection with this proceeding, or the Auction Advisor, without such source being known or reasonably suspected by you (after reasonable due inquiry) to be in breach of an applicable confidentiality or non-disclosure agreement; or (iv) was

independently developed by you or your Representatives without the use of or reference to any Confidential Material.

2. Permitted Use and Non-Disclosure of Confidential Material.

You agree that you and your affiliates, directors, officers, employees, agents, attorneys, accountants, financial advisors, consultants, and any of your other representatives or advisors (collectively, your "Representatives") shall use all Confidential Material solely for the purpose of evaluating the Auction in this regulatory proceeding, and for no other purpose whatsoever. You agree that you and your Representatives shall keep the Confidential Material confidential and shall not disclose any of the Confidential Material to anyone; provided, however, that disclosure of such information may be made by you (i) to any of your Representatives who are actively and directly participating in the evaluation of the Auction and who need to know such information, it being understood and agreed that you shall cause each such Representative to treat such information as Confidential Material and comply with the terms of this Agreement as if such Representative were a party to this Agreement, and that you shall be responsible to Eversource and the Auction Advisor for any breach of the provisions hereof by any such Representative.

3. Return, Destruction, or Retention of Confidential Material. Upon written request of Eversource, the Auction Advisor, or the Commission, you shall promptly return or destroy all Confidential Material and any other information held by you or any of your Representatives who are in possession of such information in connection with your review of, or your interest in, the Auction, which contain or reflect any Confidential Material, in each case, along with all copies of the same. In all cases of destruction, you shall promptly provide to Eversource, the Auction Advisor, or the Commission, as applicable, certified written notice of such destruction. Notwithstanding the foregoing, you may keep (a) copies of the Confidential Material to the extent required by law, rule, regulation, or administrative order, and (b) backup copies of items containing or constituting Confidential Material in computer systems to the extent that routine computer backup procedures or processes create such copies; provided that, in either case, notwithstanding anything herein to the contrary, including the expiration of the term of this Agreement, (i) any such Confidential Material shall continue to be subject to all obligations of confidentiality set forth in this Agreement until such Confidential Material has been returned or destroyed as set forth in this section, and (ii) such Confidential Material shall be retained solely by your legal or compliance department and shall not be made available at any point thereafter to personnel in other departments, other Representatives, or any other person, without the express prior written consent of Eversource, the Auction Advisor, or the Commission. Notwithstanding the return or destruction of any Confidential Material, you and your Representatives shall continue to be bound by the confidentiality and other obligations hereunder.

4. Nature of Obligations. You and Eversource and the Auction Advisor agree that, except for any other Non-Disclosure Agreement signed by you in connection with participating as a potential bidder in the Auction process, neither Eversource, the Auction Advisor, the Commission, nor you, will be under any legal obligation of any kind whatsoever with respect to the Auction by virtue of this or any other written or oral expression with respect to the Auction by Eversource, the Auction Advisor, the Commission, or any of their respective Representatives, on the one hand, and you or your Representatives, on the other hand, except for the matters

specifically agreed to in this Agreement. This Agreement contains the entire and only agreement between Eversource, the Auction Advisor, and you concerning the subject matter hereof, and any term or condition of this Agreement may only be modified or waived by a separate writing executed by the parties hereto that expressly modifies or waives such term or condition.

5. Required Disclosure. If you or any of your Representatives become required (by deposition, interrogatory, request for documents, subpoena, civil investigative demand, regulatory review, or similar process) to disclose any of the Confidential Material, you agree to provide Eversource, the Auction Advisor, and the Commission with prompt prior written notice of, and the terms of and circumstances surrounding, such requirement, to the extent permitted by applicable law, rule, or regulation, so that Eversource, the Auction Advisor, or the Commission as intended third party beneficiary may seek a protective order or other appropriate remedy, and/or waive compliance with the terms and conditions of this Agreement. If such protective order or other remedy is not obtained, or if Eversource, the Auction Advisor, or the Commission waives compliance with the provisions hereof, then you and your Representatives agree to disclose only that portion of the Confidential Material that you are advised by counsel is reasonably necessary to ensure compliance with such requirement. In addition, you and your Representatives shall not oppose any action, and shall, if and to the extent required by Eversource, the Auction Advisor, or the Commission, and not otherwise prohibited by law, cooperate with, assist, and join with Eversource, the Auction Advisor, or the Commission, at the requesting party's expense, in any reasonable action, by Eversource, the Auction Advisor, or the Commission as intended third party beneficiary to obtain an appropriate protective order or other reliable assurance that confidential measures will be accorded to the Confidential Material.

6. Term. The terms and conditions of this Agreement, and all obligations of confidentiality contained herein, shall remain in full force and effect indefinitely and without expiration.

7. Remedies and Waiver. It is further understood and agreed that money damages may not be a sufficient remedy for any actual or threatened breach of any of the provisions of this Agreement, and that any party hereto may seek specific performance and injunctive and other equitable relief as a remedy for any such actual or threatened breach. It is further understood and agreed that no failure or delay by the parties hereto in exercising any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power, or privilege hereunder. In the event of any litigation relating to this Agreement, if a court of competent jurisdiction determines in a final non-appealable decision that this Agreement has been breached by any party (including a breach hereof by your Representatives or any other signatory's Representatives), then the non-prevailing party shall reimburse the prevailing party for any reasonable legal fees and expenses incurred in connection with all such litigation. The existence of any claim or cause of action that you or any of your Representatives may have against Eversource, the Auction Advisor, or the Commission, or any of their affiliates or Representatives, shall not constitute a defense or bar to the enforcement of this Agreement.

8. Commission as Intended Third Party Beneficiary of Agreement. By signing this Agreement, you agree to be bound by the terms of the Commission's Order on Confidential Treatment of Auction Data, Order No. 26,057, (Sept. 19, 2017) as modified in Order No. 26,063, (Oct. 11, 2017), and you further acknowledge and agree that the Commission is an intended third

party beneficiary of this Agreement and as such may enforce the terms of that order and the terms and conditions of this Agreement, including, without limitation, the express rights and remedies provided for in Section 7 hereof, against you in a court of competent jurisdiction located in New Hampshire.

9. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire. The parties hereto irrevocably and unconditionally consent hereby to submit to the exclusive jurisdiction of the Business and Commercial Dispute Docket (BCDD) of the Superior Court State of New Hampshire pursuant to N.H. Superior Court Civil Rule 207, or the United States District Court for the District of New Hampshire, for any action, suit, or proceeding arising out of or relating to this Agreement, and hereby further irrevocably and unconditionally waive and agree not to plead in any such court that any such action, suit, or proceeding brought in any such court has been brought in an inconvenient forum.

10. Severability. If any of the provisions of this Agreement is found to violate any statute, regulation, rule, order, or decree of any governmental authority, court, agency, or exchange, such invalidity shall not be deemed to affect any other provision hereof or the validity of the remainder of this Agreement, and such invalid provision shall be deemed deleted herefrom to the minimum extent necessary to cure such violation.

11. Assignment. This Agreement shall be for the benefit of and shall be enforceable by Eversource, the Auction Advisor, or the Commission as intended third party beneficiary, and their respective affiliates, successors, and assigns. It is understood that any assignment of this Agreement by you or your Representatives without the express prior written consent of Eversource, the Auction Advisor, and the Commission shall be void and of no effect. It is further understood that this Agreement shall bind and be enforceable against each party hereto and its successors, legal representatives, and permitted assigns.

12. Counterparts. This Agreement may be executed in one or more counterparts, and by the parties hereto on separate counterparts, each of which shall be deemed an original for all purposes and all of which together shall be deemed one and the same Agreement. A signed copy of this Agreement delivered by facsimile, e-mail, PDF, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[Remainder of Page Intentionally Left Blank]

If you are in agreement with the foregoing, please sign and return the duplicate copy of this Agreement, which shall constitute the parties' entire agreement with respect to the subject matter hereof.

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

By: _____

Name: Robert A. Bersak

Title: Chief Regulatory Counsel

Date: _____

J.P. MORGAN SECURITIES, LLC

By: _____

Name:

Title:

ACCEPTED AND AGREED TO:

By: _____

Name: _____

Title: _____

Date: _____