

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 19-057

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

Request for Change in Rates

**Order Denying Motion to Resolve Dispute Regarding Settlement Agreement
Implementation and Permitting Eversource to Seek Confidential Treatment of
and File Comments on the Business Process Audit Report**

O R D E R N O. 26,804

April 24, 2023

In this order, the Commission denies Public Service Company of New Hampshire d/b/a Eversource Energy's (Eversource) filing captioned "Motion to Resolve Dispute Regarding Settlement Agreement Implementation" without prejudice. The Commission also establishes a deadline for Eversource to seek confidential treatment of and comment on the filed business process audit report.

I. PROCEDURAL HISTORY

On March 17, 2023, Eversource filed a "Motion to Resolve Dispute Regarding Settlement Agreement Implementation" (Motion) into Docket No. DE 19-057, a closed docket in which Eversource's 2019 rate case was adjudicated. According to Eversource, issues arose between it and the Department of Energy (DOE) regarding the interpretation of terms of the Settlement Agreement on Permanent Distribution Rates (Settlement Agreement) (tab 125), approved by the Commission in Order No. 26,433 (December 15, 2020) (tabs 143 and 144). Eversource seeks an order compelling the DOE to produce an August 2022 draft of a business process audit report, as well as for the Commission to establish process for Eversource and the DOE to review and provide input on the final business process audit report before the final report is filed with the Commission.

On March 22, 2023, in response to the Motion, the Commission issued a procedural order that reopened Docket No. DE 19-057 and set a deadline for the pre-existing parties to Docket No. DE 19-057 to file responses to the Motion.

The Office of the Consumer Advocate (OCA) and the DOE both filed timely responses in opposition to the Motion.

On April 20, 2023, the DOE filed a confidential copy of the final business process audit report with the Commission and the OCA. The cover letter included with this submission was distributed to all pre-existing parties to Docket No. DE 19-057. The DOE indicated that Eversource may seek confidential treatment of portions of the business process audit report.

The Motion, responses, and other 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. COMMISSION ANALYSIS

The Commission reviewed Eversource's Motion and the replies filed. The relevant facts are not in dispute. Eversource, the OCA, and the DOE are signatories to the Settlement Agreement. The Settlement Agreement includes a provision for Eversource's identified business processes to be audited, with such audit to be performed by an outside auditing consultant. The DOE's role in the audit process is described in pertinent provisions of the Settlement Agreement as follows:

1. [T]he Company agrees to a business process audit of the Company... to be **conducted and overseen** by Staff. Exhibit 58 at Bates page 7, *see also id.* at Bates page 46 (emphasis added); and
2. The consultant will be hired and **supervised** by the Commission and Staff.... *Id.* at Bates page 46 (emphasis added).

The dispute raised by Eversource pertains to the DOE's role during the period of time after hiring the consultant and before Eversource and the DOE received the consultant's final audit report. Eversource alleged that the DOE received a draft business process audit report on or about August 2022. The DOE agreed that it "reviewed a draft audit report before it was issued as final." DOE Response (tab 257) at 3.

Eversource identified no statute or rule under which the Commission could compel the DOE to produce a document or documents or to hear a complaint about the DOE's performance of its duties. Eversource therefore cast its motion as a matter of interpretation of the provisions of the Settlement Agreement defining the DOE's role. While the Settlement Agreement does contemplate that both the Commission and the DOE have a role in supervising the consultant, because the DOE is now a distinct department of New Hampshire's executive branch, it is not clear on what grounds the Commission might supervise the DOE's role prior the filing of the Consultant's report with the Commission or compel the DOE to produce documents where no adjudicative proceeding is presently convened (as noted above, the above-captioned adjudicative proceeding was resolved by final order approving the Settlement Agreement and this docket was previously closed).

In the first instance we deny Eversource's motion for the being filed in a closed docket where no contested case is presently noticed. Furthermore, even if we agreed that the words "supervise," "conduct," or "oversee" are ambiguous, it is not clear that interpreting these terms would provide a legal basis upon which the Commission could grant Eversource the relief it seeks. Whereas the DOE has now filed the business process audit report under confidential cover without Eversource's comments, the Commission will now supervise the final stages of receiving the

business process audit report. Eversource is afforded the opportunity to seek confidential treatment of portions of the audit report and file comments as follows:

1. Within thirty calendar days of this order, Eversource may file the full business process audit report in redacted and confidential forms, along with an appropriate motion for confidential treatment. In the same filing, Eversource may also submit a separate written response containing its comments on the business process audit report.

Based upon the foregoing, it is hereby


ORDERED, that Eversource's Motion to Resolve Dispute Regarding Settlement Agreement Implementation is DENIED without prejudice; and it is

FUTHER ORDERED, that within 30 days from the date of this order, Eversource may file a motion for confidential treatment accompanied by the full business process audit report in redacted and confidential forms, as well as any written comments on the business process audit report as discussed herein.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of April 2023.



Daniel C. Goldner
Chairman



Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket: 19-057

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