

STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

Public Service Company of New Hampshire d/b/a Eversource Energy
2015 Least Cost Integrated Resource Plan

Docket No. DE 15-248

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE D/B/A EVERSOURCE
ENERGY'S MOTION FOR WAIVER PURSUANT TO RSA 378:38-a, MOTION FOR
CLARIFICATION OF FILING REQUIREMENTS, and MOTION TO STAY**

Pursuant to New Hampshire Code of Administrative Rules Puc 203.07 and RSA 378:38-a, Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource” or “the Company”) hereby seeks clarification of certain filing requirements relating to its 2015 Least Cost Integrated Resource Plan (the “2015 LCIRP”) in light of intervening Commission actions. Furthermore, Eversource moves the Commission for waivers, to the extent not already granted, of certain filing requirements of the 2015 LCIRP. In light of the above requests, Eversource additionally requests that the Commission stay the docket pending a ruling on the motions. In support of these motions, Eversource states as follows:

1. On May 1, 2014, the Commission issued Order No. 25,659 in Docket No. DE 13-177 relating to Eversource’s 2013 Least Cost Integrated Resource Plan (the “2013 LCIRP”). That order approved a settlement agreement relating to the 2013 LCIRP and found that Eversource’s 2013 LCIRP was adequate under the relevant statutory standards. Order No. 25,659 at 9. In addition, through the approved settlement Eversource agreed that it would supplement the information provided in the 2013 LCIRP with additional information on its distribution planning with descriptions of how it integrates least cost objectives into its planning,

as well as updates to its assessments of demand-side energy management programs. Order No. 25,659 at 7. Also, Eversource agreed to include additional information relating to “Smart Grid” benefits, and, in particular, the integration of distribution automation in its next plan. *Id.* When issuing its order approving the settlement, the Commission acknowledged that there was then pending legislation (HB 1540) that could affect the timing and content of future resource plan filings. *Id.* at 9.

2. On June 2, 2014, Eversource filed a motion for reconsideration or clarification of Order No. 24,659. In its motion, Eversource also noted the then pending legislation as well as “guidelines” that the Commission had set for Eversource’s resource plan filings in Order No. 25,459 (January 29, 2013) relating to Eversource’s 2010 Least Cost Integrated Resource Plan. Eversource stated that “Presuming that legislation is signed into law, it is not clear what PSNH would be required to do to comply with those new LCIRP filing requirements in light of the ‘guidelines’ set out in Order No. 25,459.” June 2, 2014 Motion in Docket No. DE 13-177 at 2. Additionally, Eversource noted that in Order No. 25,459, the Commission had differentiated between “full” resource plan filings and “abbreviated” or “limited” filings, and requested clarification on whether the 2015 LCIRP was to be a full filing or something other than a full filing. *Id.* Lastly, Eversource sought clarification of the timing of its filing in light of statements made by the Commission that the need for a full filing would not arise until after the conclusion of the Commission’s process relating to the Company’s ownership of generation. *Id.* at 3.

3. On June 12, 2014, the Commission issued Order No. 25,676 granting reconsideration of portions of Order No. 25,659. In particular, the Commission concluded that pursuant to its authority under RSA 378:38-a, it would waive “the requirement that PSNH file a full LCIRP until the conclusion of the investigation that is the subject of IR 13-020 *and*

Commission action regarding PSNH's retention of its generation assets.” Order No. 25,676 at 3

(emphasis added). Further, the Commission stated:

Therefore, we modify Order No. 25,659 and direct PSNH to file an LCIRP limited to transmission and distribution no later than June 21, 2015, two years from its 2013 LCIRP filing. The limited LCIRP shall conform to the guidance in Order No. 25,459 related to transmission and distribution planning, to Order No. 25,659, and to any related statutory changes made to RSA 378:38. The limited LCIRP, due June 21, 2015, need not address supply options, diversity of supply sources, consideration of the Clean Air Act (as amended) or the assessment of the plan's impact on the environment, economy, energy price and supply in New Hampshire.

Order No. 25,676 at 4.

4. Effective August 15, 2014, the New Hampshire Legislature enacted certain amendments to the resource planning statutes through HB 1540 and amended the scope of information required for a resource plan submission. Prior to the amendments, RSA 378:38 provided, in relevant part, that a plan include:

- I. A forecast of future electrical demand for the utility's service area.
- II. An assessment of demand-side energy management programs, including conservation, efficiency improvement, and load management programs.
- III. An assessment of supply options.
- IV. An assessment transmission requirements.
- V. Provision for diversity of supply sources.
- VI. Integration of demand-side and supply-side options.
- VII. An assessment of plan integration and impact on state compliance with the Clean Air Act Amendments of 1990.
- VIII. An assessment of plan integration and impact on state compliance with the National Energy Policy Act of 1992.
- IX. An assessment of the plan's long- and short-term environmental, economic, and energy price and supply impact on the state.

RSA 378:38 (effective June 8, 1994 to August 15, 2014).

Following the amendment, RSA 378:38 requires that a plan include, but not be limited to:

- I. A forecast of future demand for the utility's service area.
- II. An assessment of demand-side energy management programs, including conservation, efficiency, and load management programs.

III. An assessment of supply options including owned capacity, market procurements, renewable energy, and distributed energy resources.

IV. An assessment of distribution and transmission requirements, including an assessment of the benefits and costs of “smart grid” technologies.

V. An assessment of plan integration and impact on state compliance with the Clean Air Act of 1990, as amended, and other environmental laws that may impact a utility’s assets or customers.

VI. An assessment of the plan’s long- and short-term environmental, economic, and energy price and supply impact on the state.

VII. An assessment of plan integration and consistency with the state energy strategy under RSA 4-E:1.

RSA 378:38. Notably, under RSA 378:38-a, which was also amended, the Legislature broadened the Commission’s authority to waive any requirement under RSA 378:38.

5. Based upon the information and guidance in the Commission’s orders, Eversource filed its 2015 LCIRP on June 19, 2015 and noted that it had incorporated the statutory changes within its 2015 LCIRP submission. At the pre-hearing conference in this matter on August 6, 2015, and through additional communications, it has become evident that certain parties to the docket hold differing opinions of the requirements of Eversource’s 2015 LCIRP in light of the Commission’s orders and the legislative amendments. Accordingly, by this motion, Eversource seeks to identify what matters are, or should be, covered in its 2015 LCIRP, and which matters are, or have been, waived pursuant to RSA 378:38-a, or otherwise. For clarity, Eversource is not requesting that the Commission rule upon the adequacy or sufficiency of Eversource’s plan at this time. Instead, Eversource seeks clarification on the application of the enumerated requirements set out in the amended RSA 378:38 and those flowing from the Commission’s prior orders, and, to the extent appropriate, seeks confirmation of prior waivers, or that new waivers be granted pursuant to RSA 378:38-a.

6. Eversource begins by outlining its base understanding of the various requirements, and notes that it does not intend to address the requirements of the law that were

repealed, rather than amended, in 2014. In Eversource’s assessment, the requirements of RSA 378:38, I, II, and IV, as amended, have not been waived, eliminated, or materially changed, and Eversource does not seek waivers or clarification relating to those provisions. Also, in that the Commission had knowledge of the impending statutory changes when it provided the waiver in Order No. 25,676, and that it had stated that certain items would be waived and that Eversource would not be required to provide a “full” filing until sometime following Commission action on the disposition of Eversource’s generating assets – action which has yet to occur – Eversource believes that the Commission intended its waiver to persist beyond the effective date of the amendments to RSA 378:38. Eversource factored that understanding into its initial submission of its 2015 LCIRP.

7. With respect to the requirement in RSA 378:38, III, as amended, which requires an assessment of supply options, in Order No. 25,676 the Commission stated that the 2015 LCIRP “*need not address supply options, diversity of supply sources, consideration of the Clean Air Act (as amended) or the assessment of the plan’s impact on the environment, economy, energy price and supply in New Hampshire.*” Order No. 25,676 at 4 (emphasis added). While the provision relating to an assessment of supply options was amended in 2014, the amendment served only to provide a non-exhaustive list of items to include in the evaluation, and did not amend the general requirement relating to an assessment of supply options – a requirement that was waived in Order No. 25,676. Accordingly, because the Commission has waived the underlying obligation, and because the amendment to the requirement did not invalidate the waiver, Eversource requests that the Commission confirm that the requirement in RSA 378:38, III, as amended, has been waived.

8. With respect to RSA 378:38, V, as amended, similar to the above, the amendment to this provision left intact the requirement relating to the Clean Air Act, a requirement that was waived in Order No. 25,676. Accordingly, Eversource seeks confirmation of that waiver. In the amendments to this provision, the Legislature added a new generic requirement to review other environmental laws. Eversource submits that the waiver in Order No. 25,676 acted as a waiver of this amended requirement as well for the reasons explained below.

9. Regarding, RSA 378:38, VI, as amended, that provision requires an “assessment of the plan’s long- and short-term environmental, economic and energy price and supply impact on the state” and the text of that provision is identical to the language in the prior statute. In Order No. 25,676 the Commission specifically waived any requirement to provide an “assessment of the plan’s impact on the environment, economy, energy price and supply in New Hampshire.” Order No. 25,676 at 4. Accordingly, in that the language of the statute did not change, the waiver of this section remains and should be confirmed. Furthermore, in light of the facts that the requirement relating to the Clean Air Act was waived and that the requirement to provide an assessment of the plan’s impact on the environment was waived, Eversource submits that the requirement flowing from the generic language added to RSA 378:38, V, as amended, has also been waived and Eversource requests that the Commission confirm that waiver.

10. Finally, RSA 378:38, VII, as amended, provides that there is to be assessment of the plan’s integration and consistency with the State Energy Strategy (“SES”). In that this is a new requirement, Eversource acknowledges that it was not directly addressed by Order No. 25,676. It is, however, unclear whether, by implication, that Order waived this requirement or whether other intervening events have effectively waived or rendered moot, at least temporarily, a plan filing on the matter, and Eversource requests clarification on those matters.

11. The SES was produced by the New Hampshire Office of Energy and Planning in September 2014 and included an assessment of the present energy landscape in New Hampshire as well as a number of proposed actions for future analysis and implementation.¹ It did not require any specific actions by utilities or the Commission, only recommended certain actions that it believed would help achieve what it called The Energy Vision. Some of the material in the SES either is not applicable to electric utilities, such as the recommendations relating to transportation improvements, and other items are beyond the direct control of utilities, such as recommended changes to the renewable portfolio standards law. Eversource does not address such inapplicable items. It is with regard to the items implicating electric utility planning upon which Eversource requests clarity.

12. As one example of the concern that requires clarification, the SES discusses various issues and recommendations regarding utility investments in energy efficiency, including setting efficiency goals, addressing utility disincentives to pursue energy efficiency, and expanding the availability of and funding sources for energy efficiency programs. See SES at 24-29. Those very matters were initially addressed in a Commission investigation in Docket No. IR 15-072, and are now included in the Commission's review of the potential implementation of an Energy Efficiency Resource Standard ("EERS") through Docket No. DE 15-137, which presently has hearings scheduled for April, 2016. Eversource is an active participant in that ongoing docket. In that there is an open and active docket where there is continuing debate on whether and how to implement the recommendations of the SES as part of an EERS, and that the docket would not conclude until at least the middle of 2016, it is unclear whether Eversource could, or should, provide an assessment of the integration and consistency of its plan with the

¹ The SES is available at: <http://www.nh.gov/oep/energy/programs/documents/energy-strategy.pdf>.

SES.² Any resource plan would likely vary from the SES or any ultimate decision on an EERS in Docket No. DE 15-137, and including an assessment in its resource plan could prejudice Eversource's position in the ongoing docket where it is engaged with numerous stakeholders in substantial discussions aimed at preparing a document that will ultimately be adjudicated before the Commission. A similar issue exists with respect to the SES's call to look at grid modernization, which has been taken up by the Commission in Docket No. IR 15-296.

13. Eversource takes seriously the Commission's admonition that that a company's resource plan submissions meaningfully align with its actual planning activities. However, at this point, and given that major portions of the recommendations of the SES are presently under evaluation through other Commission dockets, it is unclear how Eversource could provide a resource plan that demonstrates consistency with the strategy. When the implementation of the strategy is not yet decided, to provide a plan that integrates and is consistent with such strategy is premature. In its plan, Eversource has provided an analysis of the existing energy efficiency programs it administers, and it has provided information about its plans relating to a smarter and more modern grid and the means by which it intends to implement those plans, items consistent with the expectations of the SES. Eversource requests that the Commission conclude that the requirement in RSA 378:38, VII has been waived by Order No. 25,676, or by the initiation of other Commission dockets, or, if the requirement is not waived, Eversource requests that the Commission clarify the scope of the required submission.

² Eversource notes that there is presently at least one other outstanding resource plan filing, Docket No. DG 15-033 relating to Northern Utilities, and that the resource plan submissions of two other utilities are due to be filed before the conclusion of Docket No. DE 15-137. See May 7, 2014 secretarial letter in Docket No. DE 13-195 relating to Unitil Energy Systems setting filing date at April 16, 2016; and July 29, 2014 secretarial letter in Docket No. 12-347 relating to Granite State Electric Company setting filing date at January 15, 2016. Eversource believes that each of these submissions would benefit from understanding the scope of RSA 378:38, VII to their filings in light of the Commission's ongoing dockets.

14. Lastly, in light of the above motions, Eversource requests that the Commission stay this docket pending the outcome of the motion. To date, Eversource has received discovery in the case, consistent with the procedural schedule, but has not responded. At least some of the discovery requests, and the related responses, may become moot depending upon the Commission's rulings on the above requests. Further, Eversource notes that the procedural schedule approved by the Commission on August 11, 2015 includes only discovery questions and responses and a single technical session, but no further process. In light of such a spare schedule, staying the docket pending a ruling on the above requests would not unduly delay the docket, or prejudice any party.

15. As noted, by this submission Eversource is not seeking a finding relating to the adequacy or sufficiency of its 2015 LCIRP, but only clarity on the scope of the obligation in light of the concerns that have been expressed. To the extent necessary and appropriate, Eversource can and will provide additional or supplementary information for the items that are to be included, but at this juncture, requires clarity on the scope of the requirements in light of the Commission's prior waiver, the amendment to the law, and the Commission's commencement of dockets relating to items that may otherwise have been covered by the 2015 LCIRP.

WHEREFORE, PSNH respectfully requests that the Commission:

- A. Confirm or grant waivers pursuant to RSA 378:38-a as described above relating to Eversource's 2015 LCIRP;
- B. Clarify the scope of the filing obligations as described above and confirm whether such obligations have been waived or rendered moot by the existence of other dockets;
- C. Grant the motion to stay pending a ruling on the motions; and
- D. Grant such further relief as is just and equitable.

Respectfully submitted,
Public Service Company of New Hampshire d/b/a Eversource Energy
By Its Attorney

Dated: August 28 2015

By: 
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CERTIFICATE OF SERVICE

I hereby certify that, on the date written below, I caused the attached Motion to be served pursuant to N.H. Code Admin. Rule Puc 203.11.

August 28, 2015
Date


Matthew J. Fossum