

DAVIS MALM &
D'AGOSTINE P.C.
ATTORNEYS AT LAW

MAFRC 11DEC17PM12:25

Robert J. Munnelly Jr.

VIA E-FILEING AND FIRST-CLASS MAIL

December 7, 2017

Debra A. Howland
Executive Director and Secretary
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

Re: Docket No. DE 17-113 Eversource Petition for Approval of Energy Service Supply Proposal
Retail Energy Supply Association Post-Hearing Comments

Dear Ms. Howland:

Retail Energy Supply Association ("RESA")¹ respectfully submits the following brief post-hearing comments for the consideration of the Public Utilities Commission ("Commission") in issuing a final Decision in the above-referenced docketed proceeding.

As background, undersigned RESA counsel participated in the December 4, 2017 hearing. As noted by counsel in his opening and closing remarks, counsel was authorized to discuss RESA's concerns with two aspects of the proposed Settlement Agreement but was not authorized, at that time, to support or oppose the Settlement Agreement in whole or part. Based on the clarification of issues as elucidated during the December 4, 2017 hearing, counsel can categorically state that RESA now opposes two aspects of the Settlement Agreement, generally for the reasons advanced by RESA counsel at the hearing, and asks that the Commission consider and address RESA's arguments in rendering a final Decision. RESA opposes the following provisions:

¹ The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of more than twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

direct 617-589-3822 direct fax 617-305-3122
email rmunnelly@davismalm.com

ONE BOSTON PLACE • BOSTON • MA • 02108
617-367-2500 • fax 617-523-6215
www.davismalm.com

1. **Unprecedented Pass-Through to Competitive Supply Customers of Non-Hydro Generation Costs Associated with Carrying Charges for Stranded Thermal Investment, IPPs and PPAs.**

RESA was pleased to have Eversource witnesses confirm on the record that Eversource was not planning to use a non-bypassable stranded cost rate – specifically, the Stranded Cost Recovery Charge (“SCRC”) – to seek recovery for the first time from competitive supply customers of costs associated with hydroelectric generation assets. See Settlement Agreement, pp. 4-5, at paragraph A. The Eversource witnesses confirmed that, to date, such hydroelectric generation costs have been recovered exclusively through Energy Service (“ES”) rates to the Eversource default customers who benefited from such hydroelectric generation assets.

After receiving confirmation of that reasonable and appropriate rate treatment for hydroelectric generation costs, RESA was surprised to learn at hearing that Eversource was proposing to use the SCRC to require competitive supply customers for the first time to pay for “all remaining non-hydro costs and revenues to the SCRC and out of the ES rate for costs and revenues relating to the carrying charge on stranded thermal assets prior to securitization and for any IPPs and PPAs held by Eversource.” Settlement Agreement, p. 5, at paragraph B (emphasis added). The Eversource witnesses acknowledged under cross-examination that these remaining generation-related costs and revenues that were formerly charged only to ES customers would henceforth be charged to all distribution customers as a non-bypassable charge, including to competitive supply customers. The Eversource witnesses also confirmed that these remaining non-hydro generation costs and revenues have been sizable – Mr. Goulding recalled that such costs have in the past amounted to as much as \$70 million per year – and would have a significant material rate impact on commercial and industrial customers (at least fifteen cents) and a much larger impact on residential customers. Settlement Agreement proponents defended the adjustment as being permitted by the Decision approving the divestiture Settlement Agreement in Docket DE 14-238 but did not attempt to justify the imposition of this new generation-related stranded cost charge on competitive supply customers from a policy basis, a fairness basis or from a standpoint of consistency with the decision not to charge retail suppliers for hydroelectric generation assets in the same Settlement Agreement.

RESA strongly opposes the Settlement Agreement’s proposed implementation of this wholly new and unfair generation-related charge to competitive retail customers not making use of Eversource generation until such time as all generation assets are securitized. The proposed new charge is unprecedented and inconsistent with the Restructuring Act, which has insulated competitive supply customers from all generation-related charges since the start of competition. See generally RSA 369-B:3,IV(b)(1)(A) (limiting Eversource’s ability to pass generation costs to customers of retail suppliers prior to divestiture); Commission Order No. 26,056 (September 21, 2017 Order in Docket DE-17-113, at pp. 6-7). Even if the Settlement Agreement in Docket DE 14-238 does not expressly

forbid imposition on generation-related stranded cost charges on competitive suppliers during the period between sale of generation assets and a securitization order that will socialize costs among all distribution customers as a matter of policy, the Commission's analysis in the September 21, 2017 Order appears to reject Eversource's efforts to shift costs of competitive supply customers prior to securitization. See Commission Order No. 26,056, at p. 8 ("Reading RSA 374-F:2, IV(d) together with the 2015 Settlement Agreement, we find that no generation-related costs can be included in stranded costs until such time that those costs are recognized in connection with divestiture") (emphasis added). Generation-related costs will be "recognized in connection with divestiture" upon securitization, a result consistent with the many Restructuring Act provisions supporting retail choice in New Hampshire. Absent this requested ruling, ES rates will be kept artificially low as a result of the forced subsidy paid by competitive supply customers, thereby deleteriously harming the competitive retail market in the state of New Hampshire.

2. **The Commission Should Modify the Proposed Effective Date Plan as Too Disruptive to Customers and Competitive Retail Suppliers.**

RESA counsel also separately focused his opening and closing remarks on the need to avoid customer confusion and adverse impacts on competitive retail suppliers as Eversource implements its proposed new request for proposals ("RFP") process, including recommending that the first procurement should occur not earlier than July 1, 2018. The hearing highlighted troubling information regarding the proposed plan for implementing the new rates that were not apparent on the face of the Settlement Agreement and only partially alleviated by the Chair's directive to Eversource to work closely with the Commission's Consumer Affairs Unit on implementation issues. Accordingly, RESA hereby reaffirms its concerns regarding the Effective Date provisions in the Settlement Agreement and requests that the Commission order that the new RFP process not start on any date earlier than July 1, 2018 to ensure a smooth and proper transition. Moreover, RESA requests that the Commission thoughtfully examine to the full impact of the Settlement Agreement that considers the retail market and related customer impacts in addition to the ES wholesale procurement process changes.

The testimony at hearing demonstrated that there is a virtual certainty of massive rate fluctuations in a short period of time. The proposed April 1, 2018 effective date, subject to possible delay if divestiture completion is deferred, results in a very high ES rate of approximately 11.5 cents. As explained by Eversource witnesses, this will occur because the usual six-month ES rate will be curtailed to exclude low cost spring and summer months, leaving only the peak winter months of January through March. The Eversource witnesses projected that the ensuing ES rate would be very low, totaling approximately 7.5 cents, as a result of the exclusion of winter months and the inclusion only of the shoulder and summer months. The ES rate will almost certain snap back up to a high rate when Eversource incorporates November, December and January peak winter rates as it seeks to implement the revised February 1 starting date. This artificial "yo-yo" effect caused by the proposed

Debra A. Howland
Executive Director and Secretary
New Hampshire Public Utilities Commission
December 7, 2017
Page 4

DAVIS MALM &
D'AGOSTINE P.C.
ATTORNEYS AT LAW

April 1 effective date will be confusing to customers and disruptive to competitive suppliers, who will have to explain why their rate is suddenly out of market compared to a 7.5 rate but will be competitive again starting in late summer. Moreover, the unintended consequences of the April 1st “transitional” effective date may result in a massive number of residential and small commercial customers switching away from competitive retail rates to ES service to take advantage of a temporary and artificially-derived wholesale ES rate, especially with those retail suppliers that do not charge an Early Termination Fee. RESA believes the Commission should proceed with caution so as to not substantially disrupt or undermine the state’s well-functioning competitive retail market. In addition, customer confusion will be further exacerbated if the divestiture of the thermal plants is delayed, which could result in a start date that could move from April 1 to May 1 and would start a new rate scheme if it moves beyond May 1.

Consequently, RESA respectfully requests that the start date for the new RFP process commence not earlier than July 1, 2018, the normal start dates for new rates in New Hampshire for many years. This is consistent with the Docket DE 14-238 Settlement Agreement, which expressly referenced that the RFP could start six months after divestiture – thereby allowing ample time for thoughtful customer education and for suppliers to develop new rate products, and avoiding the pricing anomalies that will occur with an April 1 or May 1 start date that excludes all cold weather months and creates the pricing “yoyo” effect described above.

An original and six (6) copies of these letter comments are filed herewith. Please contact the undersigned if there are any questions.

Sincerely,



Robert J. Munnelly, Jr.

RJM/jmc

Enclosures

cc: Docket Service List (by email)