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NH-PUC 10SEP15-09:58

September 10, 2015

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

RE: Docket No. DE 15-361
Complaint of Vincent Migliore Against Eversource Energy

Response of Eversource

Dear Director Howland:

On September 3, 2015 Public Service Company of New Hampshire d/b/a Eversource Energy ("Eversource") received a submission from a customer, Vincent Migliore, that had been made to the Commission. In its notification of the submission to Eversource, the Commission stated that it was treating the submission as a complaint pursuant to RSA 365:1 and :2 and required Eversource to respond on or by September 14, 2015. Eversource herein provides its response to the complaint as required by PART Puc 204 and the Commission's September 3, 2015 letter.

Relative to the above-identified complaint, the complaint alleges that the funds used to support and administer the Home Performance with Energy Star ("HPwES") program, an energy efficiency program administered by Eversource as part of the Statewide Core Energy Efficiency Programs and overseen by the Commission, have been improperly managed by Eversource. More specifically, the complaint alleges that Mr. Migliore believes he was defrauded by various subcontractors because he did not receive the full scope of services that had been specified for his home and he believes that Eversource failed by not properly supervising subcontractors who had been engaged to complete and to inspect the work at Mr. Migliore's home. As compensation, Mr. Migliore is seeking the balance of the loan funds used to pay for the work at his home. Pursuant to Puc 204.03(a)(2) Eversource hereby advises the Commission that it disputes the complaint.

Initially, Eversource believes it relevant and important to include information underlying this matter. In 2013, Mr. Migliore participated in the HPwES program and as part of that program his house was weatherized by a weatherization contractor assigned by Eversource. A copy of Mr. Migliore's contract for participation in the HPwES program is included as

Attachment A.¹ Among other things, the contractor added blown-in cellulose insulation to attic areas of Mr. Migliore's home including the areas over the garage and bedrooms. That work was inspected by a separate quality assurance contractor, also assigned by Eversource. That inspection identified certain additional work that needed to be completed and the initial contractor returned to perform that work.

Mr. Migliore paid for this weatherization work through a zero interest loan and on-bill financing with Eversource. The initial amount of the loan was \$3,203.31 and was to be repaid over a period of 48 months. Pursuant to the loan agreement signed by Mr. Migliore in April 2013, and included as Attachment B to this submission, the loan funds were disbursed to the contractor "only after the Participating Customer has certified that the work has been satisfactorily completed." Mr. Migliore certified the work, the loan funds were disbursed, and Mr. Migliore began repaying the loan according to its terms.

In July 2014, more than a year after the work was completed and the loan funds disbursed, Mr. Migliore had a fire in his home that began in the attic. In the course of cleaning up the damage from the fire, the cleaning company hired by Mr. Migliore stated to him that it observed less cellulose insulation over the bedroom area as compared to the garage area. Based upon that information, Mr. Migliore has contended that the weatherization contractor and/or the quality assurance contractor had not completed their work properly or completely and that, in essence, he had been defrauded with respect to the work at his home.

Mr. Migliore brought his concerns about the work to the attention of Eversource's program administrators in December 2014 and asked them to work to resolve the matter. Eversource's program administrators investigated the matter by reviewing their records and those of the contractors, and by discussing the matter with the contractors and Mr. Migliore at length. Based upon that review it appeared that Mr. Migliore had received what he should have received and that he was billed properly for it. According to the review by Eversource personnel, at the time of the weatherization work a greater level of insulation already existed over the bedroom area and therefore required less blown-in cellulose than the area over the garage, which likely accounted for the difference in the amount of cellulose insulation observed by the cleaning company. Accordingly, Eversource determined that there was nothing for it to resolve, and recommended that Mr. Migliore address any continuing concerns with the weatherization contractor directly.

In March 2015, Mr. Migliore determined that he would no longer pay the loan, apparently on the belief that the loan was for products or services he had not received. In that the loan was being repaid through on-bill financing with Eversource, payments on the loan had, until that time, been received and credited at the same time as Mr. Migliore's regular bill for electric service. When Mr. Migliore ceased paying the loan, Eversource's billing system was initially

¹ At the time of the initial contract, Eversource was still doing business as Public Service Company of New Hampshire, or PSNH, and its contracts reflected that name. Upon changing its name in early 2015, Eversource also updated its contracts. While Eversource's electronic systems store the relevant information populating the contract form, they do not keep copies of the original contracts. Therefore, although the contract predated Eversource's name change, the contract included as Attachment A is, in all material respects, identical to the prior contract and the only difference is the reference to Eversource rather than PSNH.

unable to distinguish the loan payment (or non-payment) from the payment for regular service, which resulted in the erroneous issuance of notices for non-payment for service. Mr. Migliore's bill for his electric service and the bill for the loan have now been separated and such erroneous notices should no longer be issued.

With that background in mind, Eversource addresses the substance of the complaint. In Mr. Migliore's complaint, he contends that:

public funds are not being properly administered under the tutelage of Eversource and as a result of poor administration, I allege to have been defrauded and Eversource's subcontract inspector failed to uncover this by not completing their inspection services as part of the program's process, and for which public funds were used to allow for such inspection.

Migliore Complaint E-mail, dated August 17, 2015. As an initial matter, Eversource cautions against taking the presumption that the circumstances of this case indicate a broader instance of poor administration by Eversource. The unique circumstances of this case, and the long, positive record of Eversource in administering this program with Commission oversight, militate against the conclusion that Eversource is not diligent or adequately responsive to the needs of customers participating in the programs it administers.

More pointedly on the issues here, in the initial contract for services in the HPwES program (Attachment A), it provides, at paragraph 5 on page 2 of the "Contract for Energy Efficiency Work," that Eversource, through a contractor, would cure any defects in labor or materials for a period of one year from the installation date at no additional cost. The alleged defects in the labor and materials were not brought to the attention of Eversource until nearly 2 years after the installation date. In addition, following the fire in July, Mr. Migliore addressed and corrected the damage and reinsulated the subject areas months before informing Eversource of the issue. Therefore, Eversource personnel could undertake an investigation only through an after-the-fact review of the information available to them and performed the most thorough investigation they were able without having an opportunity to see the disputed work. Thus, even if Eversource had been willing to offer corrective measures beyond the one year time frame in the contract, it was never provided an opportunity to inspect the work to determine whether corrective measures were warranted. Eversource cannot be held to account for matters of which it is not, and could not reasonably be, aware.

Additionally, in the HPwES contract it provides, at page 1 of the "Energy Summary Report," that "Your contractor is ready to implement these recommendations promptly, and shall guarantee materials and workmanship for two years from the date of installation." The referenced recommendations included the attic insulation. Accordingly, for two years following installation it was the contractor, not Eversource, that was responsible for remedying alleged defects in the work. Also, and as noted above, in the loan contract (Attachment B) it states that the loan funds would only be disbursed upon certification by the customer that the work was complete. Accordingly, in that Mr. Migliore had signed off on the work so the loan could be disbursed, and that the obligation to guarantee the work fell to the contractor after the initial year, Eversource consistently, and properly, informed Mr. Migliore that he would need to address his

concerns with the contractor directly. The fact that Eversource assigned the contractors as part of the HPwES program does not create additional obligations for Eversource. Customers choosing to avail themselves of the programs do so voluntarily and subject to the terms and conditions of the program, including those relating to the liability of Eversource and the contractors for remedying allegedly defective work.

With respect to the payment of the loan, and the issue of public funds, the funds that make up the loan pool come from customer payments supporting the energy efficiency programs administered by Eversource. Therefore, Eversource agrees that those funds are public funds, and not money belonging to Eversource. In that it is not money belonging to Eversource, it is Eversource's position that it does not have authority to forgive the loan balance, but rather has an obligation to be a steward of those funds for the benefit of all customers. Based upon that conclusion, as well as upon the notice in the loan agreement that Eversource may take legal action to secure payment of the loan, Eversource has continued to administer Mr. Migliore's loan consistently with the way it administers all such loans. In that Mr. Migliore has not paid the loan, Eversource has continued to bill Mr. Migliore for the loan, and, in the fulfillment of its obligations, would intend to collect on the loan should it remain unpaid.

Accordingly, and as stated above, Eversource has made as complete an investigation of this issue as it has been able and based upon the information available to it, Eversource has determined that: (1) there was no cause for Eversource to undertake corrective measures at Mr. Migliore's premises under the HPwES program or otherwise; and (2) even if it desired, there is no basis upon which Eversource is able to forgive the loan balance. Therefore, Eversource disputes the complaint and contends that it has acted reasonably, appropriately, legally and in line with the Commission's rules and policies in this instance.

Thank you for your assistance with this matter. Please do not hesitate to contact me with any questions.

Very truly yours,



Matthew J. Fossum
Senior Counsel

CC: Service List

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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FILING INSTRUCTIONS:

a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:

DEBRA A HOWLAND
EXECUTIVE DIRECTOR
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429

b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.

c) Serve a written copy on each person on the service list not able to receive electronic mail.