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February 20, 2020

Ms. Debra A. Howland
Executive Director
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301

Re: Docket No. DE 19-057
Public Service Company of New Hampshire d/b/a Eversource Energy
Distribution Service Rate Case
Motion of Staff to Remove the Electric Vehicle Proposal from Eversource's
Request for Increased Distribution Revenue

Dear Ms. Howland:

As you know, on February 5, 2020, the Staff of the Commission filed a motion in the above-captioned proceeding to remove the electric vehicle (EV) proposal contained in the testimony of Public Service Company of New Hampshire and to have the Commission direct parties interested in the proposal to submit comments in Docket IR 20-004, which the Commission recently opened to investigate the design of EV charging rates. The Office of the Consumer Advocate (OCA) concurred in the Staff motion.

Subsequently, objections to the motion have been filed by two intervenors: Clean Energy NH and the Department of Environmental Services (DES). The OCA has reviewed these objections and believes that some clarification would be helpful. Accordingly, we are submitting this letter to explain why the OCA supports the Staff motion.

As explained in the Staff motion, when PSNH submitted its case to support its requested increase in distribution rates, there was no prefiled testimony or other evidence to support the inclusion of any investments related to EV charging in rate base. Nor was there a proposal, or evidence to support a proposal, for a rate specific to EVs or EV charging stations. Rather, the president of PSNH simply indicated that his company was exploring options for the creation in the future of a public-private partnership that would develop an EV fast-charging corridor in the PSNH service territory.

In a rate case, the burden of proof is clearly with the subject utility. *See* RSA 378:8 ("When any public utility shall seek the benefit of any order of the commission allowing it to charge and

collect rates higher than charged at the time said order is asked for, the burden of proving the necessity of the increase shall be upon such applicant.”). To the extent PSNH seeks to include costs or rate designs related to EVs or EV charging in the rates to be approved in this proceeding, the failure to support such a request in its case in chief means *PSNH cannot sustain its burden of proof* on these questions. In essence, the pending Staff motion is akin to a request in civil court for summary judgment as a matter of law on these questions given the lack of any genuine issue of material fact. Indeed, it is far from clear whether PSNH is even truly seeking an order in this docket on the subjects of EVs or EV charging. In the view of the OCA, the cursory discussion of EV charging infrastructure in PSNH’s testimony is, like the two pilot projects also touted in the company’s initial filing (the Westmoreland battery storage pilot and the Durham microgrid, both dropped from the rate case by agreement of PSNH), merely a publicity stunt intended to distract public and Commission attention from the more drastic and unpalatable aspects of what the Company is requesting.

Assuming, *arguendo*, that an intervenor could use this rate case to cause the Commission to order PSNH to make EV-related investments or implement EV-specific rate designs, that too is no longer possible now that all parties have submitted their written testimony. By rule, a party seeking relief before the Commission “shall bear the burden of proving the truth of any factual proposition by a preponderance of the evidence.” N.H. Code Admin. Rules Puc 203.25.

According to the prefiled testimony of the DES, the purpose of its testimony is “to recommend that *Eversource include* a proposal for an EV time of use (TOU) rate for the residential sector, and that a separate mechanism, possibly a different rate or customer class designed to overcome the disincentive for investment in DCFC [i.e., fast-charging infrastructure] due to demand charges, be considered.” Testimony of Rebecca Ohler and Christopher Skoglund (Tab 72, December 31, 2019) at 3, lines 10-13 (emphasis added). Although this submission offers a detailed and persuasive case in favor of increased reliance on EVs, the DES does not itself make, much less support, a specific proposal for either EV investments or EV rate design.

Similarly, Clean Energy NH and ChargePoint, Inc. witness Kevin Miller “evaluate[s] the capital investment proposed by Public Service Company of New Hampshire” and pronounces it “generally consistent with emerging best practices in utility EV charging programs,” Testimony of Kevin Miller (Tab 65, December 20, 2019) at 3, lines 13-16 and 4, lines 14-15, without acknowledging that PSNH stated only that it was “exploring options” for such a \$2 million investment, Testimony of William J. Quinlan (Tab 17, May 28, 2019) at Bates page 53, lines 3-7. As with the DES witnesses, Mr. Miller offers a persuasive policy case for a theoretical investment by PSNH in EV charging infrastructure, but this is not the same as providing evidence of a specific proposal for the Commission to consider and deem a prudent investment.

In opposing Staff’s motion Clean Energy NH addresses none of these evidentiary deficiencies but argues instead that it “makes no sense” to do as Staff suggests given that “other parties have decided to intervene and expend their resources on this issue for the past seven months.” Clean Energy NH Objection to Staff Motion (Tab 77, February 12, 2020) at 2-3.¹ The DES objection claims that

¹ Oddly, given that the Miller testimony focuses on the desirability of PSNH investment in charging infrastructure, it now appears that what Clean Energy NH actually seeks is not approval of such an investment but that the Commission condition the approval of any rate increase on PSNH “filing . . . an EV charging rate within a defined

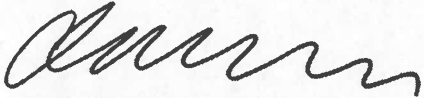
Staff's motion reflects a "misunderstanding" the reason DES intervened and submitted testimony, the "nature" of the PSNH's "proposal" to invest in charging infrastructure, and the scope of the legislation that led the Commission to open Docket IR 20-004. DES Objection to Motion of Staff (February 19, 2020) at 1. These arguments are unpersuasive inasmuch as they reduce to a request that the Commission take up EV issues in this docket for policy reasons.

The Office of the Consumer Advocate is sympathetic to the policy positions articulated by the Department of Environmental Services and Clean Energy NH. We are filing extensive comments today in Docket IR 20-004, urging that the Commission conduct a thorough investigation of creative approaches to rate design that would encourage increased reliance on electric vehicles to meet New Hampshire's transportation needs in a manner that may actually reduce electric costs for all customers.

In the meantime, however, these intervenors cannot cure PSNH's failure to provide an evidentiary basis for either a time-of-use rate for EVs or an amorphously defined \$2 million investment. Including costs or rate designs related to EVs in the relief granted via this rate case would, in these circumstances, be unfair to the ratepayers who must ultimately bear all of the utility's costs and the consequences of its rate designs. The parties and the Commission should also bear in mind that nothing prevents PSNH from making the \$2 million investment without the preapproval of the Commission (but subject to after-the-fact review for prudence). In that sense, the real audience for the persuasive testimony offered by the Clean Energy NH and DES witnesses are at Eversource's corporate headquarters in Massachusetts.

For the foregoing reasons, the OCA supports the Staff motion to exclude issues related to EV charging infrastructure and EV rate design from this proceeding.

Sincerely,



D. Maurice Kreis
Consumer Advocate

Cc: Service List

period after such approval." Clean Energy NH Objection at 3. The OCA does not object to this request, which appears to be similar to the relief requested by DES.