

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 19-139**

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

**2019 Least Cost Integrated Resource Plan**

**Order Approving Settlement Agreement**

**ORDER NO. 26,362**

**June 3, 2020**

**APPEARANCES:** Matthew J. Fossum, Esq., and Jessica Chiavara, Esq., on behalf of Public Service Company of New Hampshire d/b/a Eversource Energy; the Office of the Consumer Advocate, by D. Maurice Kreis, Esq., and Christa Shute, Esq., on behalf of residential customers; and Brian D. Buckley, Esq., on behalf of Commission Staff.

In this order, the Commission finds that Eversource's filing from August 23, 2019, satisfies the requirements of Order No. 26,050 (August 25, 2017), as modified by Order No. 26,262 (June 14, 2019), which granted partial waiver of Eversource's statutory requirement to file a 2019 Least Cost Integrated Resource Plan and instead required a more limited document. This order also requires Eversource to submit its 2020 LCIRP filing on, or before, October 1, 2020.

Eversource's filing from August 23, 2019, as well as other docket filings, except any information for which confidential treatment is requested of or granted by the Commission, are available at <http://www.puc.state.nh.us/Regulatory/Docketbk/2019/19-139.html>.

**I. PROCEDURAL HISTORY**

On August 25, 2017, the Commission approved the 2015 Least Cost Integrated Resource Plan (LCIRP) for Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource or the Company). The Commission also required Eversource to file its next LCIRP

on, or before, August 25, 2019, and to include several deliverables related to least-cost planning. Order No. 26,050 at 6 (August 25, 2017).

On April 9, 2019, Eversource requested that the Commission waive its obligation to file an LCIRP pursuant to RSA 378:38-a. On June 14, 2019, the Commission waived Eversource's obligation under RSA 378:38 to file an LCIRP within 2 years of the Commission's final order regarding the utility's prior plan. Order No 26,262 at 6-7 (June 14, 2019). Instead, the Commission required the Company to file an update on the status of deliverables required by its order approving Eversource's 2015 LCIRP and to confirm that Eversource was still following the process of system planning using the procedures, criteria, and policies outlined in its 2015 LCIRP. *Id.* The Commission declined to waive Eversource's obligation to file an LCIRP within five years of the filing date of the prior plan. *Id.* at 6.

On August 23, 2019, Eversource filed the more limited document (August 2019 filing) required by Order No. 26,262. Hearing Exhibit (Exh) 1. Eversource also filed a motion for confidential treatment and protective order relating to certain information contained in its filing.<sup>1</sup> The Office of the Consumer Advocate (OCA) filed a notice of participation pursuant to RSA 363:28 on August 27, 2019.

The Commission issued an Order of Notice in the instant docket on September 4, 2019, and scheduled a prehearing conference for September 25, 2019. The parties engaged in multiple rounds of discovery and technical sessions. Commission Staff (Staff) filed the testimony of Kurt F. Demmer on January 22, 2020. Exh. 5. Eversource, the OCA, and Staff (Settling Parties) participated in settlement discussions, and a settlement (Settlement) was filed on March 11, 2020. Exh. 6. The Commission held a hearing on the Settlement on March 16. Pursuant to a

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<sup>1</sup> Order No. 26,350 (April 22, 2020) granted in part and denied in part Eversource's Motion for Confidential Treatment and Protective Order.

Commission request the Settling Parties provided written briefs regarding the Commission's waiver authority under RSA 378:38-a.

## **II. POSITIONS OF THE PARTIES**

### **A. Eversource**

Eversource's August 2019 filing included a document summarizing the status of specific deliverables identified in Order No. 26,262, and several supporting attachments related to those deliverables. Exh. 1 at 11-208.

The August 2019 filing provided information regarding: (1) joint planning processes conducted by Eversource with both Unitil Energy System, Inc., and the New Hampshire Electric Cooperative; (2) organization of Eversource's field distribution operations, planning, and engineering functions; (3) crew compliment reports for 2017, 2018, and 2019; (4) potential projects where targeted energy efficiency solutions might alleviate loading concerns at 4 and 12 kV substations; (5) HeatSmart customer recertification results; (6) the most recent proposed capital projects presented to senior management for consideration of approval; and (7) an explanation of how the LCIRP process was followed while planning for the three highest-cost distribution projects completed within the last two years. *Id.*

Eversource suggested the information contained in its August 2019 filing satisfies the requirements of Order No. 26,262, and requested the Commission approve its submission consistent with RSA 378:38. *Id.* at 3-4.

In its post-hearing brief, Eversource asserted that RSA 378:38-a, authorizes the Commission to waive the two- and five-year timelines required by RSA 378:38, when requested by a utility and good cause is demonstrated. Eversource Brief at 2. Eversource asserted both are present in this request. *Id.*

Eversource also suggested that “to the extent there could be any argument that a long-term waiver would undermine the purpose of RSA 378:38 ... such concern is tempered in this case,” because the extension request is for a period of three months rather than some indefinite period. *Id.* at 4.

### **B. Commission Staff**

Staff asserted that Eversource’s August 2019 filing failed to satisfy Order No. 26,262. Exh. 5 at 4. Staff observed that Eversource had made changes to its planning criteria and load forecasting methodologies, and suggested Eversource was therefore no longer following the procedures, criteria, and policies outlined in its 2015 LCIRP. *Id.* at 5-7. Specifically, the Company adopted new standards relating to bulk distribution transformer rating criteria and assessment procedures, SYSPLAN-008 and SYSPLAN-010.<sup>2</sup> *Id.* at 5-6. Staff also found that Eversource was in the process of retiring its TD-190 planning criteria and adopting a company-wide Distribution Planning Guide meant to encompass the entirety of Eversource’s planning procedures and criteria in one document. *Id.* at 7.

In its post-hearing brief, Staff observed that the Commission has previously interpreted RSA 378:38-a, as authorizing its waiver of the timelines prescribed in RSA 378:38. Staff Brief at 2. Staff suggested that the Company’s commitment to file an LCIRP at a date certain allows the Commission to waive the five-year requirement without concern for whether such a waiver would nullify the entirety of the LCIRP statutory suite. *Id.* at 2-3. Staff also asserted that good cause exists to waive the five-year requirement because the extension will allow Eversource to incorporate a forthcoming distribution planning guide into its LCIRP filing, allow development of a more detailed LCIRP, and provide time for Eversource to work with the Settling Parties to

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<sup>2</sup> SYSPLAN 008 relates to how Eversource calculates the acceptable loading on its bulk distribution transformers; Eversource also began using the SYSPLAN 008 approach for non-bulk transformers. SYSPLAN 10 relates to the acceptable amount of load at risk in a scenario where Eversource loses a bulk transformer.

identify a planned capital investment that might be cost-effectively deferred through deployment of non-wire solutions. *Id.* at 3.

### **C. Office of the Consumer Advocate**

In its post-hearing brief, the OCA asserted that the Commission's authority hinges upon whether good cause exists to extend the deadline. OCA Brief at 2. The OCA suggested good cause exists to grant the requested extension. *Id.* The OCA asserted the extended timeline will allow Eversource to incorporate the forthcoming distribution planning guide into its LCIRP filing, provide time for the parties to select a capital investment that might be deferred or avoided by deployment of non-wire solutions, and provide the Company with enough time to meet the Settlement commitments consistent with the directives of previous Commission LCIRP orders. *Id.*

## **III. SETTLEMENT AGREEMENT**

### **A. Revised Planning Criteria**

The Settlement highlights a disagreement regarding the need for Eversource's recent planning criteria revisions. In light of this disagreement, the Settlement requires that the Company's 2020 LCIRP: (1) explain, describe, and justify changes from its prior planning criteria; and (2) describe any project proposed through 2021 that may be impacted by the planning criteria changes, the degree to which the new criteria are factors in those projects, and any incremental costs or benefits relating to those projects as a result of applying the new criteria. Exh. 6 at 6-7.

### **B. 2020 LCIRP Commitments**

The Settlement requires Eversource to file a 2020 LCIRP that provides a level of detail, which at a minimum, is consistent with the level of detail provided in Unitil's 2016 LCIRP filing relative to "planning and budgeting processes, distribution operating procedures, distribution

engineering manual, equipment standards ... planning criteria, load forecasts, future system needs, planned solutions, and potential alternatives to planned solutions.” Exh. 6 at 4.

The Settlement further describes several elements that Eversource will provide in its next LCIRP to satisfy requirements under RSA 378:38. Exh. 6 at 4-6. That framework includes: (1) a ten-year, substation breaker-level loading criteria and forecast; (2) a five-year forward-looking evaluation of planned system investments and alternatives that were considered, including any area planning studies and solution selections forms developed for that period; and (3) an assessment of demand side management programs and their potential to defer or avoid the need for capacity-related investments. *Id.*

The Settlement outlines a set of criteria through which Eversource will identify candidate capital projects for deferral or avoidance in part or in whole through deployment of non-wire solutions. *Id.* The Settlement also commits Eversource to working with the Settling Parties to select one of those candidates for a detailed non-wire solution potential analysis, to be filed with the LCIRP, and provides a non-exclusive list of the technologies and avoided costs that shall be considered in that assessment. *Id.*

Additionally, the Settlement requires Eversource’s next LCIRP to include a description of how non-wire solutions are integrated into the Company’s planning processes and revised internal policy documentation reflecting an increased emphasis on such solutions.

### **C. 2020 LCIRP Filing Deadline Extension**

Order No. 26,262 did not waive Eversource’s RSA 378:38 obligation to file an LCIRP by June 5, 2020, five years from the filing of its most recent LCIRP. The Settling Parties request extension of this five-year requirement by approximately three months, to October 1, 2020. Exh. 6 at 7. The Settling Parties cite the Company’s forthcoming Distribution Planning Guide and the level of detail planned for the next LCIRP as cause for the extension. *Id.*

**D. Compliance with Order No. 26,262**

The Settling Parties agree that the update filed by the Company satisfies the Order No. 26,262 requirement that Eversource provide a more limited filing in place of its 2019 LCIRP. Exh. 6 at 4.

**IV. COMMISSION ANALYSIS**

We encourage parties to settle issues through negotiation and compromise because it is an opportunity for creative problem solving, allows the parties to reach a result in line with their expectations, and is often a better alternative to litigation. *Granite State Electric Co.*, Order No. 23,966 at 10 (May 8, 2002); *see* RSA 541-A:31, V(a) (“informal disposition may be made of any contested case ... by stipulation [or] agreed settlement”). Under RSA 541-A:31, V(a), informal disposition may be made of any contested case at any time prior to the entry of a final decision or order, by stipulation, agreed settlement, consent order, or default. N.H. Admin. R., Puc 203.20(b) requires the Commission to determine, prior to approving disposition of a contested case by settlement, that the settlement results are just and reasonable and serve the public interest.

Even when all parties join a settlement agreement, the Commission cannot approve it without independently determining that the results comport with applicable standards. *EnergyNorth Natural Gas Inc. d/b/a National Grid NH*, Order No. 25,202 at 18 (March 10, 2011).

**A. Revised Planning Criteria**

Order No. 26,262 required Eversource to confirm that it is “following the process of system planning utilizing those established procedures, criteria, and policies outlined in its 2015 LCIRP, and achieving the objectives included in its 2015 LCIRP.” Order No. 26,262 at 6. The

Settlement makes clear that Eversource is no longer following the planning criteria included in the Company's 2015 LCIRP.

At hearing Eversource's witness asserted that Eversource regularly updates its planning process, and that the LCIRP process "does not require the Company to request approval for changes in planning criteria," but rather provides an opportunity for the Company to "pull all of those [planning criteria and] processes together, to make them ... transparent to the Commission, Commission Staff, [and] the OCA." Transcript of Hearing Transcript of March 16, 2020 (Tr.) at 23.

We agree with the Company that approval of an LCIRP does not tie the Company to the planning processes, procedures, and criteria described in that LCIRP. A well-crafted LCIRP should allow the Commission the opportunity for input regarding the Company's current planning processes, procedures, criteria, and planned investments. There is value in such an opportunity, even if those items may change between LCIRP filings. Many of the 2020 LCIRP commitments described above, as supplemented by our recent guidance on distribution system planning, should ensure that the Company's next LCIRP provides such an opportunity.

A well-crafted LCRIP also provides a regular snapshot of the factors supporting a utility's investment decisions, which can be helpful in a later rate case when the Commission determines whether the costs of an investment were prudently incurred. We note, however, as we have before, that "Notwithstanding approval of an LCIRP, a utility's actions must be prudent and reasonable at the time each action is taken to ensure cost recovery." *Electric Distribution Utilities*, Order No. 26,358 at 22 (May 22, 2020). Material departures from approved planning processes, procedures, criteria, or adjudicated options, and the basis for those departures, will be a key consideration during prudence reviews.



We agree that the Settlement prescribes a reasonable approach to the revised planning criteria. We expect that any company that revises its planning criteria between LCIRP filings would explain, describe, and justify changes from its prior planning criteria in its latest LCIRP.

In this instance, Eversource has also committed to describe in its 2020 LCIRP any project proposed through 2021 that may be impacted by the planning criteria changes, the degree to which the new criteria are factors in those projects, and any incremental costs or benefits relating to those projects as a result of applying the new criteria. Those commitments will facilitate consideration of the revised criteria in the 2020 LCIRP and any subsequent requests for cost recovery where the new criteria are applied.

#### **B. 2020 LCIRP Commitments**

In addition to information relating to the planning criteria, procedures, and process revisions, the Settlement commits Eversource to a 2020 LCIRP that provides a much greater level of detail regarding load forecasts, planned capital investments, and potential alternatives to those investments. We appreciate those commitments as they will aid the Commission in completing the review required by RSA 378:39.

We view the Settlement's requirements for the next LCIRP as a thoughtful approach to assist the Company in crafting an LCIRP that meets the relevant statutory requirements and aligns well with our recent guidance on distribution system planning.

#### **C. 2020 LCIRP Filing Deadline Extension**

Through the Settlement, Eversource requests and the Settling Parties support extension of the deadline for Eversource to file its next LCIRP by approximately three months, to October 1, 2020. All three of the Settling Parties filed briefs in support of the Commission's waiver authority under RSA 378:38-a, suggesting good cause for the waiver exists because of the

extensive commitments detailed in the Settlement and the pending development of Eversource's Distribution Planning Guide.

We agree that those considerations represent good cause for the requested waiver. *Cf.* Order No. 26,262 at 5-6 (declining to waive five-year requirement because good cause for doing so did not exist at that time).

Based on the good cause described in the Settlement and subsequent briefs, and the commitment by Eversource to file its LCIRP on, or before, October 1, 2020, we grant the request for waiver of the June 5, 2020, deadline.

**D. Compliance with Order No. 26,262**

We find that the Settlement is a just and reasonable resolution of all issues considered in this limited update. We have reviewed the 2019 LCIRP and find that it adequately addresses the elements the Commission required in Order No. 26,262. On that basis, we determine Eversource has satisfied the directives of Order No. 26,262.

Based on this finding and the analysis above, we find the Settlement is in the public interest and approve it on that basis.

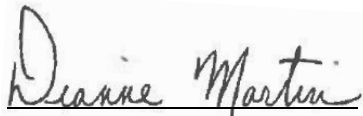
**Based upon the foregoing, it is hereby**

**ORDERED**, that Eversource has satisfied the requirements of Order No. 26,262; and it is

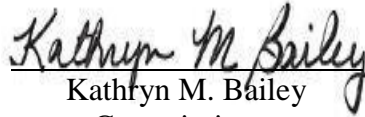
**FURTHER ORDERED**, that the Settlement describing requirements for Eversource's next-filed LCIRP is hereby approved; and it is

**FURTHER ORDERED**, that good cause exists to grant the extension of the deadline for Eversource's 2020 LCIRP to on, or before, October 1, 2020.

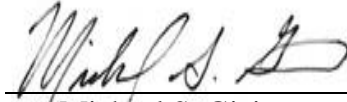
By order of the Public Utilities Commission of New Hampshire this third day of June,  
2020.



Dianne Martin  
Chairwoman

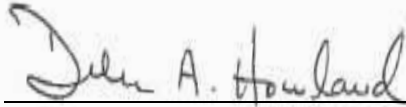


Kathryn M. Bailey  
Commissioner



Michael S. Giaimo  
Commissioner

Attested by:



Debra A. Howland  
Executive Director

## Service List - Docket Related

Docket# : 19-139

Printed: 6/3/2020

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