

STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

Public Service Company of New Hampshire d/b/a Eversource Energy

DOCKET NO. DE 22-030
Petition for Third Step Adjustment

Motion for Rehearing on Implementation of Step Adjustment

Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource” or the “Company”) submits this motion pursuant to RSA 541:3 to the Public Utilities Commission (the “Commission”) for rehearing and reconsideration of the Commission’s July 7, 2022 Procedural Order (the “Order”). The Order approved the Department of Energy’s (“DOE”) request for additional time to file its audit report in this proceeding related to the Third Step Adjustment.

In Docket No. DE 19-057, the Commission approved a settlement agreement on permanent distribution rates (the “Settlement Agreement”) in Order No. 26,433 that was entered into by and between the Company, the Commission Staff (now the DOE), the Office of the Consumer Advocate (“OCA”), Clean Energy New Hampshire, New Hampshire Department of Environmental Services, The Way Home, Acadia Center, Walmart, Inc., AARP New Hampshire, and ChargePoint, Inc. (together, the “Settling Parties”), for rates effective with service rendered on and after January 1, 2021. The Settlement Agreement included a provision for three step adjustments with the third and final step adjustment providing recovery of the costs of capital investments placed in service on or before December 31, 2021, excluding new business/growth-related projects (the “Third Step Adjustment”). The Third Step Adjustment is capped at \$9.3 million and was agreed to be included in rates effective August 1, 2022.

On April 29, 2022, the Company filed its Petition for Third Step Adjustment requesting an adjustment to rates effective August 1, 2022 consistent with the terms of the Settlement Agreement. The Commission issued its Commencement of Adjudicative Proceeding and Notice of Hearing on June 9, 2022 setting a hearing date of July 19, 2022 and a deadline of July 12, 2022 for the DOE to file its audit report regarding the Company's petition.

On June 29, 2022, DOE filed a motion seeking an extension of time to file the audit report until August 31, 2022 but did not request a delay of the hearing date or the August 1, 2022 rate effective date for the Third Step Adjustment. As represented in the DOE Motion, the Company did not oppose the request on this basis. However, Eversource did reserve its right to respond to the final audit report and to request an additional hearing, if needed. Eversource filed a response to the DOE Motion on July 1, 2022 reiterating this position and requesting that any order issued by the Commission include confirmation that additional process would be provided to the Company before any changes to the proposed rate were authorized based on the outcome of the audit report.

In response to DOE's Motion and the Company's request for confirmation of additional process in response to the audit report, the Commission granted the requested extension in the Order but also delayed the evidentiary hearing in this matter beyond the August 1, 2022 rate effective date for the Third Step Adjustment. While the Order ensures that Eversource will be afforded an opportunity to address the final audit report at the evidentiary hearing in this matter, the delay of the rate effective date results in an impact to the Company's revenues and also alters the terms of the approved Settlement Agreement.

Therefore, by way of this Motion, the Company requests a date certain for the Third Step Adjustment rate effective date that is no later than October 1, 2022¹ and also requests that rates effective on October 1, 2022 include the revenues that would have been recovered in August and September by allowing the Company to record a regulatory asset for GAAP purposes and recording the revenues that would have been collected in August and September, 2022 associated with the Third Step Adjustment. This regulatory asset would be amortized and recovered over the remainder of the twelve-month period ending July 31, 2023. Allowing recovery of this regulatory asset is necessary to ensure that the Company is made whole for the delay in the rate effective date consistent with the terms of the Settlement Agreement approved by the Commission in DE 19-057.²

In this motion, the Company requests rehearing of the Commission's decision to delay implementation of the Third Step Adjustment, contrary to the terms of the Settlement Agreement, and requests remedy of this conflict through the relief described above. The Company respectfully submits that the Settlement Agreement reflected a negotiated agreement between the Settling Parties that included concessions by all parties including the Company to reach a just and reasonable consensus. By delaying the rate effective date for the Company to an unspecified date and without a mechanism for recovering the revenues that would have been collected beginning August 1, 2022, the Company is not realizing the benefit of the bargain it struck with the Settling Parties.

In support of this motion, the Company states as follows:

¹ The Company notes that the Commission has reserved September 13, 2022 from 1:30-4:30 for the hearing in this matter. The Company respectfully suggests that it may be prudent to reserve additional hearing time on September 14, 2022 in case the necessary hearing time exceeds three hours to ensure adequate time for a Commission order that allows for an October 1, 2022 rate effective date.

² Approving this proposal is also consistent with the Commission's recent order in Docket DE 20-105 approving a similar proposal made by Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty regarding its step adjustment. Order No. 26,654 (July 27, 2022).

Standard of Review

1. RSA 541:3 allows for rehearing of a Commission order:

Within 30 days after any order or decision has been made by the commission, any party to the action or proceeding before the commission, or any person directly affected thereby, may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order, specifying in the motion all grounds for rehearing, and the commission may grant such rehearing if in its opinion good reason for the rehearing is stated in the motion.

2. The standard governing the Commission's review of a motion for rehearing pursuant to RSA 541:3 is well established. "The Commission may grant rehearing or reconsideration for 'good reason' if the moving party shows that an order is unlawful or unreasonable." *Liberty Utilities (EnergyNorth Natural Gas) Corp.*, Order No. 26,087 at 3-4 (Dec. 18, 2017) (citations omitted). "A successful motion must establish 'good reason' by showing that there are matters that the Commission 'overlooked or mistakenly conceived in the original decision,' or by presenting new evidence that was 'unavailable prior to the issuance of the underlying decision.'" *Id.* "A successful motion for rehearing must do more than merely restate prior arguments and ask for a different outcome." *Id.*
3. There is good reason to grant rehearing. The Order is contrary to the terms of the Settlement Agreement and is prejudicial to the Company in declining to implement the Third Step Adjustment on August 1, 2022, which was a key provision of the Settlement Agreement. The Order overlooked this provision of the Settlement Agreement in reaching its conclusion that delaying the hearing and rate effective date in this matter was appropriate to provide additional process on the DOE audit report.

Background

4. The Settlement Agreement provided for three step increases. The third and final step increase was agreed to have an effective date of August 1, 2022 for recovery of non-growth 2021 investments. Recovery under the third step adjustment is capped at a revenue requirement of \$9.3 million. The relevant language is contained in Section 10.1(c) of the Settlement Agreement, as follows:

(c) Step 3 shall reflect an increase for calendar year 2021 plant-in-service to be effective August 1, 2022 and shall be subject to the following conditions:

- i. The revenue requirement associated with this step shall be capped at \$9.3 million.
- ii. This step shall include only allowed projects and programs closed to plant in 2021, excluding new business/growth-related projects.

Request for Reconsideration

5. The Order, at page 1, states that

In its June 9, 2022 notice, the Commission noted that the underlying settlement agreement required all step adjustments to be subject to audit, and that the issues to be decided in this proceeding included whether Eversource appropriately calculated the proposed revenue requirement require to recover the costs of eligible capital projects. The Commission stated that, for the hearing to proceed as scheduled, it required the costs of proposed for recovery to be audited, with an audit report to be filed by July 12, 2022.

6. The Order, at page 1, further states that

The DOE maintained that the Commission could issue a decision stating that its findings were subject to adjustment or reconciliation based on the outcome of the final audit report, so that an extension of the audit deadline would not cause undue delay or adversely effect the rights of any party.

7. The Order is erroneous in finding: (i) that the hearing in this matter could not go forward pending the results of the DOE's audit; and (ii) that the new rates resulting from the proposed step adjustment could be delayed beyond August 1, 2022 contrary to the terms of the Settlement Agreement and without affecting the rights of any party.
8. First, the Settlement Agreement explicitly provides for all step increases to be subject to reconciliation based on the results of the audit. Settlement Agreement, Section 10.4.³ Thus, a delay in the issuance of DOE's audit report does not mandate a delay in the hearing and rate effective date for the Third Step Adjustment and the Order was erroneous in concluding that the hearing could not go forward until the audit report is filed. The Settlement Agreement specifically contemplated a situation where rates could become effective pending completion of the relevant audit.
9. Second, the Settling Parties agreed to a specific rate effective date as part of the terms of the Settlement Agreement (i.e., August 1, 2022). Including a date certain in the Settlement Agreement guarantees a certain level of revenue support to the Company and is also the result of a just and reasonable consensus reached by all Settling Parties. A delay in the rate effective date results in an average under-collection of \$775,000 for each month that recovery is delayed. Absent a mechanism for recovering these amounts, the Company will not receive the full benefit it is entitled to consistent with the terms of the Settlement Agreement.

³ The Company notes that the total revenue requirement associated with the 2021 plant in-service was calculated as \$10,372,595 (Testimony of Marisa B. Paruta and Edward A. Davis at 6). Thus, even if the audit report recommends a disallowance of up to approximately \$7.3 million in plant placed in service there would be no impact to the proposed rate adjustment due to the \$9.3 million revenue requirement cap for this third step adjustment.

10. Therefore, by this motion, the Company has demonstrated good reasons for the Commission to reconsider its decision to delay implementation of the third step increase indefinitely and without an appropriate mechanism for recovery of the revenues that would otherwise have been recovered beginning August 1, 2022. The Settling Parties agreed unequivocally that the Third Step Adjustment would be implemented on August 1, 2022. This certainty was relied on by the Company in accepting the financial terms of the Settlement Agreement. Similarly, the certainty of the timing of the step adjustments was a substantial factor in the Company's acceptance of the financial terms of the Settlement Agreement. The Order harms the Company because it materially alters the intricate balance of consideration achieved through the Settlement Agreement. Specifically, for each month that implementation of the third-step adjustment is delayed, the Company loses revenue of \$775,000. For these reasons, the Company respectfully requests rehearing of the Order and implementation of the third step adjustment no later than October 1, 2022 together with approval of a mechanism for ensuring that the Company will recover the full amount of agreed upon Third Step Adjustment.

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WHEREFORE, Eversource respectfully requests that the Commission:

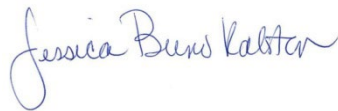
- A. Grant this motion for rehearing;
- B. Approve the third step adjustment of \$9.3 million to go into effect no later than October 1, 2022;
- C. Allow the Company to calculate the amount not recovered between August 1, 2022, and the date that the third step adjustment goes into effect, to record a regulatory asset for GAAP purposes and record the revenue for the period between August 1, 2022 and the rate effective date, and then amortize this regulatory asset over the remainder of the twelve-month period ending July 31, 2023; 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 Attorneys,

Date: August 1, 2022

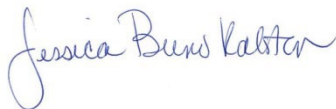


By: _____

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Certificate of Service

I hereby certify that on August 1, 2022, a copy of this Motion has been forwarded to the service list.

A handwritten signature in blue ink that reads "Jessica Buno Ralston". The signature is written in a cursive style.

Jessica Buno Ralston