

THE STATE OF NEW HAMPSHIRE



CHAIRMAN
Martin P. Honigberg

COMMISSIONERS
Kathryn M. Bailey
Michael S. Giaimo

EXECUTIVE DIRECTOR
Debra A. Howland

PUBLIC UTILITIES COMMISSION
21 S. Fruit Street, Suite 10
Concord, N.H. 03301-2429

TDD Access: Relay NH
1-800-735-2964

Tel. (603) 271-2431

FAX (603) 271-3878

Website:
www.ouc.nh.gov

August 14, 2018

Re: DE 16-693, Public Service Company of New Hampshire d/b/a Eversource Energy
Petition for Approval of a Power Purchase Agreement with Hydro Renewable
Energy, Inc.
Denial of Motion to Vacate Order No. 26,000

To the Parties:

On June 11, 2018, Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource) moved the Commission to vacate Order No. 26,000 (March 27, 2017), in which the Commission dismissed Eversource's petition. Eversource stated that the Commission based its dismissal of the petition "almost entirely" upon its legal analysis in *Public Service Company of New Hampshire*, Order No. 25,950 (October 6, 2016), which the New Hampshire Supreme Court reversed in *Appeal of Algonquin Gas Transmission, LLC*, No 2017-007, 2018 WL 2307061 (N.H. May 22, 2018). Eversource argued that the Commission must vacate Order No. 26,000 because it is based upon an "erroneous standard" and an "error of law," and that failure to vacate would "create a cloud over the legality of potential future arrangements."

On June 12, 2018, the Office of the Consumer Advocate (OCA) filed a response to Eversource's motion, recommending that this proceeding be closed, and stating, "...the petition in each docket [DE 16-241 and DE 16-693] is now moot and the Commission should therefore close both proceedings." OCA Letter, June 12, 2018, at 2. The OCA further argued, "[w]ith the fundamentals of Northern Pass in limbo, notably missing from the PSNH filing in DE 16-693 is any indication that the Company continues to pursue approval of the petition it filed in that docket." *Id.* at 3.

On June 20, 2018, the Society for the Protection of New Hampshire Forests, the New England Power Generators Association, Inc., and Conservation Law Foundation filed a Joint Response to Eversource's motion. In their joint response, they argued that Eversource's motion should be denied as procedurally invalid, moot, and otherwise flawed, in large part because Eversource did not appeal Order No. 26,000 to the Supreme Court, and the docket is closed. Joint Response of June 20, 2018.

The Commission dismissed Eversource's petition for a number of independent reasons, not simply on the basis of the Commission's legal analysis in Order No. 25,950. In particular, the Commission found that the costs and related expenses of the proposed PPA would not be permissible "stranded costs" under the SCRC rate feature and are not "stranded costs" as defined by RSA 374-F:2, IV. Order No. 25,950 at 6-7. The Commission also found that Eversource's proposal was not a "reasonable measure" to "mitigate stranded costs" under RSA 374-F:3, XII(c). *Id.* at 7. Eversource did not appeal those findings. Consequently, the Commission has declined to vacate Order No. 26,000.¹ Should Eversource submit other proposals either to purchase power or to mitigate stranded costs, the Commission will open a new docket and give those proposals full consideration.

Sincerely,

A handwritten signature in cursive script that reads "Debra A. Howland".

Debra A. Howland
Executive Director

cc: Service List (Electronically)

¹ Commissioner Giaimo did not participate in this decision.