

STATE OF NEW HAMPSHIRE  
BEFORE THE  
PUBLIC UTILITIES COMMISSION

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

2019 ENERGY SERVICE SOLICITATION

DIRECT TESTIMONY OF FREDERICK B. WHITE

Docket No. DE 18-\_\_\_\_

---

1 **Q. Please state your name.**

2 A. My name is Frederick B. White.

3 **Q. Mr. White, please provide your business address and title.**

4 A. My business address is 107 Selden St, Berlin, Connecticut. I am a Supervisor in the Electric  
5 Supply department of Eversource Energy.

6 **Q. Mr. White, please describe your responsibilities at Eversource Energy.**

7 A. I supervise and provide analytical support required to fulfill the power supply requirement  
8 obligations of Public Service of New Hampshire, d/b/a Eversource Energy (“Eversource” or the  
9 “Company”), including conducting solicitations for the competitive procurement of power for  
10 Energy Service (at times referred to herein as “ES”) and for fulfilling Renewable Portfolio  
11 Standards (“RPS”) obligations. I am also responsible for on-going activities associated with  
12 independent power producers and purchase power agreements.

13 **Q. What is the purpose of your testimony?**

14 A. The purpose of my testimony is to provide information to the Commission regarding the  
15 Company’s “Petition for Commission Review of Responses Received by Eversource Pursuant to  
16 RSA Chapter 362-H as Enacted by Senate Bill 365.”

17 **Q. Are you aware of Senate Bill 365, “AN ACT relative to the use of renewable generation to  
18 provide fuel diversity,” which was enacted as Chapter 379 of the 2018 Laws of New  
19 Hampshire over the Governor’s veto?**

20 A. Yes

1 **Q. Are you familiar with the terms of RSA Chapter 362-H, “THE PRESERVATION AND**  
2 **USE OF RENEWABLE GENERATION TO PROVIDE FUEL DIVERSITY” created by**  
3 **that law?**

4 A. Generally, yes. That law requires Eversource and Unitil to solicit proposals from certain  
5 “eligible facility” generators to purchase 100 percent of those eligible facilities’ net electrical  
6 output over a time period that is coterminous with the time period used in Eversource’s default  
7 service supply solicitation.

8 **Q. If Eversource is required to purchase the output of the eligible facilities under SB 365, will**  
9 **that output be used to provide default energy service to PSNH's retail customers?**

10 A. No.

11 **Q. Why not?**

12 A. Inclusion of the output from eligible facilities as part of Eversource's default energy service  
13 would be inconsistent with the energy service procurement protocol approved by the  
14 Commission in Order No. 26,092 (December 29, 2017). PSNH currently purchases non-firm  
15 energy from a number of IPPs and under two PPAs. None of this energy is used to serve default  
16 service load, consistent with the foregoing order. ISO-NE power markets are structured to  
17 accommodate such purchases for individual products (energy and/or capacity) such as those  
18 resulting from SB 365. Merging individual product purchases into transactions covering the  
19 whole gambit of load serving responsibilities, such as Energy Service procurements, would be  
20 unnecessarily complicating for wholesale suppliers and Eversource, and for that matter the NH  
21 PUC. It’s nonsensical to treat these SB 365 purchases differently than all other IPP transactions,  
22 the treatment of which was established in both the divestiture and energy service procurement  
23 settlement agreements.

24 The Commission itself has recognized the associated risks in the fiscal impact statement it  
25 provided to the legislature regarding SB 365:

26 Based on discussions with suppliers currently bidding in the default service market, and years of  
27 experience with default service procurements for Liberty and Unitil, the PUC has determined

1 that purchase of this additional renewable electric supply would likely increase residential  
2 customer default service prices for several reasons:

- 3 • The added supply would not be load-following or scheduled, and therefore suppliers  
4 would not know ahead of time when the power would be available. The electric  
5 distribution utility would not know ahead of time how much power would participate in  
6 the default service solicitation process and the amount and type of renewable power  
7 could vary dramatically from one solicitation to another. The uncertainty would be a  
8 risk factor that would be incorporated into rates paid by default service customers.
- 9 • The power inserted into the market by this bill, which would be priced at 80% of retail  
10 electric service rates, could be difficult for some suppliers to hedge or incorporate into  
11 their supply portfolios. It would also be 3-4 cents per kWh higher than average  
12 wholesale rates in the New England region. Adding costs and reducing the suppliers'  
13 ability to hedge increases the risk of higher cost supplies. That uncertainty would likely  
14 result in higher default service bid prices.
- 15 • Analyzing the renewable offerings and including them in the default service bids would  
16 add days to the bidding process. Delay adds risk and cost to bidding suppliers.
- 17 • Increasing the actual bid price for residential default service would increase the risk of  
18 customer migration, which adds additional load risk and costs.
- 19 • Fifth, the risk factors outlined above may cause some suppliers not to bid on default  
20 service supply making the bidding less competitive which, in the worst case, could result  
21 in a failed solicitation.

22 SB 365 itself appears to contemplate that the costs of complying with SB 365 would be  
23 monetized and recovered via a nonbypassable charge similar to the SCRC. RSA 362-H:2, V  
24 states, "The electric distribution company shall recover the difference between its energy  
25 purchase costs and the market energy clearing price through a nonbypassable delivery services  
26 charge applicable to all customers in the utility's service territory." As "the market energy  
27 clearing price" changes every five minutes, and the output from multiple eligible facilities will  
28 each be continuously variable, the only practical way of establishing "the difference between its  
29 energy purchase costs and the market energy clearing price" is to monetize the purchases from  
30 the eligible facilities by instantaneously selling that output into the ISO-NE marketplace. Had  
31 the legislation contemplated using the energy purchased under SB 365 to be used to serve

1 default service load the legislation would have logically required the costs of the purchases to be  
2 recovered from default service customers.

3 Due to the total potential generating capacity of the six eligible facilities located in Eversource's  
4 service territory (over 100 MW), the size of Eversource's default energy service load, the  
5 uncertainty of the operations of the eligible facilities, and the scarcity of parties that participate  
6 in Eversource's RFP to provide default energy service, requiring the use of the output of the  
7 eligible facilities as part of Eversource's default service power would create risks to RFP bidders  
8 that at best would increase the price of default energy service to customers and at worst would  
9 result in a failed RFP process where no proposals are received.

10 **Q. Has Eversource issued an RFP to obtain default energy service for the period of February**  
11 **1, 2019 through July 31, 2019?**

12 A. Yes.

13 **Q. Does that RFP include the use of any purchases under SB 365 for the provision of default**  
14 **energy service by Eversource?**

15 A. For the reasons stated above, the RFP does NOT include the use of any purchases under SB 365  
16 to provide default energy service.

17 **Q. RSA 365-H:2 calls for Eversource to solicit proposals from “eligible facilities.” Did**  
18 **Eversource solicit such proposals?**

19 A. Yes. On November 6 Eversource sent out the solicitation that is included with our Petition as  
20 Attachment A. Only five of the eligible facilities located in Eversource’s service territory chose  
21 to respond; Springfield Power LLC AKA Hemphill, Pinetree Power Tamworth LLC, Pinetree  
22 Power LLC AKA Bethlehem, DG Whitefield, LLC, and Bridgewater Power Company, L.P.  
23 Copies of those responses are included with our Petition at Attachment B.

24 I note that the responses varied in many ways from the Company’s solicitation. I have attached  
25 as Attachment 1 a redlined version comparing the “Confirmation” response from Pinetree-  
26 Tamworth to the original “Confirmation” solicitation for reference. Material differences  
27 between the “Confirmation” in the solicitation and the responses include:

- 1 • Elimination of the requirement for a Commission order mandating purchases by Eversource
- 2 • Elimination of the need for finality of the Commission’s order prior to the start of purchases
- 3 • Elimination of payment at the avoided cost rate during the pendency of all legal challenges
- 4 to SB 365
- 5 • Changes in how the transactions would be effectuated at ISO-NE
- 6 • Elimination of the requirement for each eligible facility to retain “qualifying facility” status
- 7 under PURPA

8 Similar changes were made by the eligible facilities to the “Governing Terms.” A comparison of  
9 the “Governing Terms” response from Pinetree Tamworth to the original “Governing Terms” in  
10 the solicitation is attached as Attachment 2.

11 Eversource believes that all five responses made identical changes.

12 **Q. Did Eversource’s solicitation inform eligible facilities of the opportunity to submit a**  
13 **proposal to enter into a power purchase agreement with the electric distribution company**  
14 **under which the electric distribution company would purchase an amount of energy from**  
15 **the eligible facility for a period that is coterminous with the time period used in the default**  
16 **service supply solicitation?**

17 A. That solicitation notes that SB 365 mandates Eversource to solicit the interest of the eligible  
18 facilities to sell their net electrical output to Eversource at the “adjusted energy rate” to be  
19 determined by the statute. Eversource expressly notes that it is complying with SB 365 as a  
20 state-required legal mandate, and not as the Company’s voluntary act. Eversource noted that it  
21 does not intend to enter into power purchase agreements with these facilities, but, instead, would  
22 make the purchases specified by SB 365 if and to the extent that this Commission orders it to do  
23 so. This process is akin to the “rate orders” issued by this Commission in 1980’s, the early days  
24 of the Public Utility Regulatory Policies Act (“PURPA”).

25 **Q. Why did Eversource take that position?**

26 A. The Federal Power Act normally places jurisdiction over sales of energy in interstate commerce,  
27 such as the sales contemplated by SB 365, with the Federal Energy Regulatory Commission  
28 (“FERC”).

1 Prior to Eversource’s solicitation, the New England Ratepayers Association (“NERA”) filed a  
2 Petition for Declaratory Order at FERC challenging the legality of SB 365 (included in our  
3 Petition at Attachment D). NERA claims that SB 365 is preempted by both the Federal Power  
4 Act (“FPA”) and PURPA.

5 In their responsive proposals (included in our Petition at Attachment B) each of the eligible  
6 facilities have indicated that they have been certified as “qualifying facilities” by FERC under  
7 PURPA. Although sales by the eligible facilities may be exempt from the Federal Power Act,  
8 they are still subject to FERC’s jurisdiction under PURPA and the FERC regulations  
9 implementing PURPA.

10 Under PURPA, utilities have the obligation to purchase from QFs at only two rates: an avoided  
11 cost rate or a voluntarily negotiated bi-lateral contract rate. The “adjusted energy rate”  
12 established by SB 365 is neither of these rates. Thus, there is a high likelihood that the  
13 requirements of SB 365 are preempted by federal law, and Eversource must protect its customers  
14 and itself from waiving the restrictions of PURPA by entering into PPAs (i.e., contracts).

15 Eversource has determined that it is in the best interest of its customers not to enter into any  
16 formal PPAs under SB 365 that might be viewed by FERC as bi-lateral contracts allowed under  
17 PURPA.

18 **Q. Does Eversource’s solicitation commit Eversource to purchasing the net electrical output**  
19 **of those six facilities at SB 365’s “adjusted energy rate”?**

20 A. Only if so ordered by this Commission, unless there is a pending legal challenge to SB 365.

21 In the event the legality of SB 365 is subject to any administrative or legal challenges, during the  
22 pendency of all such challenges Eversource’s solicitation states that the rate for purchasing the  
23 output from these plants would be the avoided cost rate approved by this Commission in Docket  
24 No. DE 14-238 as set forth in Eversource’s “Tariff for Electric Delivery Service, NHPUC No. 9  
25 – Electric Delivery.”

1 This avoided cost rate is what PURPA requires for purchases by utilities from QFs. Buying at  
2 the avoided cost rate while the legality of SB 365 is adjudicated protects customers from paying  
3 more for electricity than may be legally required.

4 **Q. Are there any other issues under PURPA affecting purchases by Eversource under SB**  
5 **365?**

6 A. Yes.

7 As noted in our Petition, in 2010 FERC issued an Order (attached to our Petition as Attachment  
8 C) stating that Eversource has been “relieved on a service territory-wide basis of the requirement  
9 to enter into new power purchase obligations or contracts with QFs that have a net capacity in  
10 excess of 20 MW effective January 7, 2010... .”

11 Hence, under federal law, Eversource is not required to enter into a new contract or obligation to  
12 purchase electric energy from a qualifying small power production facility under PURPA if that  
13 facility has a net generating capacity in excess of 20 MW.

14 One of the eligible facilities under SB 365 has a net generating capacity that exceeds 20 MW - -  
15 the Pinetree-Tamworth facility with a net generating capacity of 21.5 MW. (See Attachment B,  
16 IV of Petition).

17 The Commission should consider this FERC decision when deciding what it will require  
18 Eversource to do under SB 365.

19 **Q. What is Eversource requesting from this Commission in light of the legal challenge to SB**  
20 **365?**

21 A. Under RSA 362-H:2, IV, all eligible facility agreements shall be subject to review by the  
22 commission. As noted earlier, pursuant to PURPA limitations and to protect both customers and  
23 the Company, any purchases described by SB 365 will be made by Eversource only if and to the  
24 extent that this Commission orders Eversource to do so.

25 Eversource seeks the Commission to consider the NERA challenge to the legality of SB 365 that  
26 is pending before FERC, as well as the general PURPA rate restrictions (i.e., avoided cost or

1 voluntary, bi-lateral contract) and the determination under federal law that Eversource has been  
2 relieved from entering into new power purchase obligations or contracts with QFs that have a net  
3 capacity in excess of 20 MW effective January 7, 2010, when the Commission determines the  
4 nature and extent of purchases Eversource shall be required to make under prevailing law.

5 In light of the pending challenge to the legality of SB 365, the Commission should determine  
6 how to protect customers from excessive charges in the event that the law is ultimately set aside.  
7 Eversource has proposed that it pay only the avoided cost rate for energy until the legality of SB  
8 365 has been finally adjudicated, at which time payments will be reconciled as necessary. As an  
9 alternative, the Commission could consider requiring each eligible facility to provide a letter of  
10 credit in an amount equal to the estimated above market costs of their sales under SB 365 to  
11 ensure that funds are available to make customers whole should the law be set aside. Or, the  
12 Commission could require Eversource to escrow any amounts above the avoided cost value of  
13 the purchases until the law's legality is determined, again at which time payments will be  
14 reconciled as necessary.

15 **Q. Are there any other determinations Eversource requires from the Commission regarding**  
16 **SB 365?**

17 A. Yes.

18 A. Eversource has assumed that SB 365 only applies to the sale of "energy" and not "capacity"  
19 produced by the eligible facilities. However, the law is ambiguous regarding this distinction.  
20 For example, in RSA 362-H:2, I, b, the law states that "the electric distribution company's  
21 purchase would be for 100 percent of the eligible facility's net electrical output." In addition to  
22 the law's internal ambiguities, the "adjusted energy rate" is determined based upon an all-  
23 requirements, load-following rate – the default energy service rate -- that include both energy  
24 and capacity costs. If the Commission determines that the obligation of the eligible facilities  
25 under SB 365 includes the provision of both energy AND capacity, Eversource requests that the  
26 Commission's order mandating purchases from the eligible facilities so state.

27 B. In addition, in their responses to Eversource's solicitation, the responding eligible facilities  
28 changed the "Payment Terms" proposed by Eversource. Eversource requests that any  
29 Commission order mandating purchases from the eligible facilities incorporate the following  
30 procedure for "Payment Terms":



1 Payment Terms: Notwithstanding anything in the Confirmation or Governing Terms to  
2 the contrary, each Transaction required under this Order will be effectuated by  
3 designating PSNH, ID 50094, as 100% Asset Owner for ISO-NE billing and settlement  
4 purposes. Payment will equal Delivered Energy times the Energy Price adjusted for any  
5 revenues or expenses readily identifiable in the ISO-NE bill resulting from ownership  
6 not included in "Market Energy Clearing Price," including any and all resettlements. All  
7 other revenue net of costs that PSNH receives from ISO-NE attributable to ownership of  
8 the unit shall be credited to Seller consistent with the Section 5 of the Governing Terms.

9 C. Also, in any Commission order mandating purchases from the eligible facilities, Eversource  
10 requests that the Commission also incorporate the following:

11 The Commission's order(s) should require executed Confirmation Forms for each  
12 eligible facility signed by Sellers and a final version of the Governing Terms document,  
13 both which conform to the Commission's order(s) addressing the various issues  
14 discussed herein, be finalized and filed with the Commission prior to the start of  
15 deliveries under SB 365. PSNH's performance hereunder is expressly mandated by this  
16 Order and such performance is subject to and conditioned upon the terms set forth in the  
17 "Governing Terms for purchases by Public Service Company of New Hampshire d/b/a  
18 Eversource Energy ("Buyer") pursuant to the legal mandate set forth in New Hampshire  
19 RSA Chapter 362-H" and in the Confirmation as each is approved by this Order.

20 D. Per RSA 362-H:2, V: "The electric distribution company shall recover the difference between  
21 its energy purchase costs and the market energy clearing price through a nonbypassable delivery  
22 services charge applicable to all customers in the utility's service territory. The nonbypassable  
23 charge may include recovery of reasonable costs incurred by electric distribution companies  
24 pursuant to this section. The recovery of the nonbypassable charge shall be allocated among  
25 Eversource's customer classes using the allocation percentages approved by the commission in  
26 its docket DE 14-238 order 25,920 approving the 2015 Public Service Company of New  
27 Hampshire Restructuring and Rate Stabilization Agreement." In any Commission order  
28 mandating purchases from the eligible facilities, Eversource requests that the Commission also  
29 order that the costs of compliance will be recovered as part of Eversource's stranded cost  
30 recovery as additional "Part 2" "non-securitized stranded costs" as described in the "2015 Public  
31 Service Company of New Hampshire Restructuring and Rate Stabilization Agreement" at and  
32 Order No. 25,920 approving that Agreement.

1 E. Finally, as part of this proceeding, the Commission must set the “adjusted energy rate” as  
2 defined in RSA 362-H:1, I.

3 **Q. Does Eversource have an estimate of how much SB 365 would cost customers for the six-**  
4 **month energy service period starting February 1, 2019, if purchases were made from all**  
5 **five of the responding eligible facilities at the law’s “adjusted energy rate”?**

6 A. The precise cost to customers will depend upon the Commission’s acceptance of Eversource’s  
7 proposed energy service rate for the upcoming period, whether the purchases include only  
8 energy or both energy and capacity, the actual generation produced by each facility, and the  
9 actual market prices for energy at the time of such production. However, based upon  
10 Eversource’s understanding of these facilities, their responses to RSA 362-H:2 requiring a  
11 nonbinding proposed schedule of hourly net output amounts during the term, and energy-only  
12 sales, Eversource has calculated the following estimates of the potential cost to customers of  
13 complying with SB 365 for the six-month period of the next default energy service solicitation,  
14 i.e., February 1, 2019 through July 31, 2019:

<b>FACILITY</b>	<b>NET GENERATING CAPACITY (MW)</b>	<b>ESTIMATED ABOVE-MARKET COST (\$ millions)</b>
Springfield Power LLC	17.5	2.2
Pinetree Power Tamworth LLC	20.5	2.6
Pinetree Power LLC	15.5	2.0
DG Whitefield, LLC	17.0	2.2
Bridgewater Power Company, L.P.	15.7	2.0
<b>Total:</b>	<b>86.2</b>	<b>11.0</b>

15

16 **Q. Does that complete your testimony?**

17 A. Yes, it does.