

STATE OF NEW HAMPSHIRE
BEFORE THE PUBLIC UTILITIES COMMISSION
Docket DE 22-030

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE d/b/a EVERSOURCE ENERGY
Petition for Approval of Third Step Adjustment

Motion to Compel Production of Responses to Data Requests

Pursuant to Admin. Rule Puc 203.09(i), the Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource” or the “Company”) hereby respectfully requests that the New Hampshire Public Utilities Commission (“the Commission”) compel the New Hampshire Department of Energy (“DOE”) to respond to Eversource Energy Data Requests (DOE-Set 1), propounded on September 26, 2022 in the above-captioned docket. In support of this Motion, Eversource states the following:

Background

1. On May 2, 2022, Eversource submitted its Petition for Approval of the Third Step Adjustment together with supporting testimony and attachments to the Commission.
2. The Company submitted the Third Step Adjustment in accordance with the terms of the Settlement Agreement on Permanent Distribution Rates (the “Settlement Agreement”) approved by the Commission in Order No. 26,433, Docket No. DE 19-057, on December 5, 2020. The Settlement Agreement was executed by the Company and the Staff of the New Hampshire Public Utilities Commission (now staff of the Department of Energy or “DOE”), along with other parties.¹

¹ The Settlement Agreement was executed by and among the Company, DOE Staff, the Office of the Consumer Advocate, Clean Energy New Hampshire, New Hampshire Department of Environmental Services, The Way Home, Acadia Center, Walmart, Inc., AARP New Hampshire and ChargePoint, Inc. (collectively, “Settling Parties”). The Settlement Agreement resolved all issues among the Settling Parties regarding the Company’s request to establish permanent rates in Docket No. DE 19-057.

3. On June 9, 2022, the Commission issued a Commencement of Adjudicative Proceeding and Notice of Hearing (“Notice”) in this docket. The Notice stated that the issues to be addressed in this proceeding are “whether Eversource’s third step adjustment *is consistent with the terms of the Settlement Agreement*; whether the capital projects placed in service during calendar year 2021 *were prudent*, and used and useful, as required by RSA 378:28; whether Eversource appropriately calculated the proposed revenue requirement to recover the capital expenditures related to the capital projects placed in service in calendar year 2021; and whether, if the request for a third step adjustment were approved, the resulting rates would be just and reasonable, as required by RSA 374:2, and RSA 378:5 and :7” (Notice at 2, emphasis added).

4. The Notice established a date for hearing of July 19, 2022, without setting dates or deadlines for the filing of direct testimony by DOE Staff or for discovery (Notice at 3). The Notice directed DOE Staff to file a report from DOE Audit Division Staff showing the results of an audit of the costs proposed for recovery in this proceeding by July 12, 2022 (Notice at 4). On July 7, 2022, the Commission extended the date for filing of the audit report to August 31, 2022, upon motion of DOE. The Commission also rescheduled the hearing from July 19, 2022 to September 13, 2022.

5. The DOE issued its first set of data requests to the Company on May 26, 2022. DOE and the Company held technical sessions on June 20, July 21, and August 31, 2022. DOE issued data requests that the Company responded to following each technical session. In total, the Company responded to four sets of data requests prior to the September 20, 2022 hearing.

6. On September 6, 2022, one week prior to the hearing, DOE notified the Commission by letter that the allotted time for the hearing would be insufficient. Eversource

responded on September 7, 2022, concurring on the need for additional time at hearing to cross-examine a DOE witness, Jay Dudley, who did not submit pre-filed testimony.

6. On September 9, 2022, the Commission issued a Procedural Order regarding the upcoming hearing. In the Procedural Order, the Commission rescheduled the hearing to September 20, 2022. In addition, the Commission stated that “for an efficient hearing, the Commission requests that the DOE provide a list of any recommended disallowances by 4:30 p.m. Friday, September 16. During the hearing, Mr. Dudley will be permitted to testify, and Eversource will be permitted to cross-examine him.”

7. On September 12, 2022, Eversource submitted a letter, requesting that, in addition to providing the amounts of recommended disallowance, DOE should include the basis of any recommended disallowances in its submission on September 16, 2022, in order to further advance the efficiency of the hearing.

8. On September 16, 2022, DOE submitted a letter listing its recommended “disallowances” for the step adjustment. DOE noted that the listed recommendations were based on information reviewed to date and were compiled without the benefit of direct and cross examination of Eversource’s witnesses and, therefore, the recommendations were subject to change at the September 20 hearing. DOE included only very cursory statements as to the basis for its recommended disallowances.

9. On September 19, 2022, Eversource notified the Commission that, in the interest of maximizing the possibility that the issues could be resolved efficiently in a single hearing, the Company would defer recovery of the costs associated with the Nashua Area Work Center Renovation and Millyard Substation Replacement projects until its next rate-case proceeding.

10. On September 20, 2022, the Commission conducted the scheduled evidentiary hearing. DOE presented the testimony of Jay E. Dudley, as a witness. At this hearing, Mr. Dudley made a number of unsubstantiated and invalid claims regarding the quality of the Company's process for developing, estimating and managing capital projects, as well as allegations on delays and cost overruns (see, e.g., Tr. 9/20/22, at 209, 211-212, 213-214). Given the extent of Mr. Dudley's testimony, the Company requested an adjournment of the hearing to a later date to allow for sufficient preparation of cross-examination.

11. On September 26, 2022, Eversource issued a set of data requests to DOE directly and exclusively related to the direct testimony of Mr. Dudley at hearing, primarily related to the Business Process Audit required by Section 3 (Plant in Service) of the Settlement Agreement. Eversource's data requests are provided herewith as Attachment A.

12. On September 28, 2022, Eversource responded to Record Request RR-001, indicating that the final revenue requirement now proposed by the Company in this proceeding is \$8.928 million, including: (a) the deferral of the Nashua Renovation and Millyard Replacement projects; and (b) the Company's acceptance of audit changes identified in the DOE's Step 3 Final Audit Report submitted on August 31, 2022. This is compared to the total of \$9.3 million requested in the Company's initial filing and allowed pursuant to Section 10.1(c) of the Settlement Agreement.

Objection

13. On October 4, 2022, DOE objected to the Company's data requests on two grounds: (1) that the discovery is not appropriate at the hearing stage of the proceeding; and (2) that the Business Process Audit is not relevant to this proceeding. DOE indicated that the two data

requests, not pertaining to the Business Process Audit, can be asked at the hearing, which is not a basis for objection recognized by statute, regulation or practice.

Standard of Review

14. Pursuant to Puc 203.09(i), motions to compel responses to date requests shall: (a) be made in accordance with Puc 203.07; (b) be made within 15 business days of receiving the applicable response or objection, or the deadline for providing the response, whichever is sooner; (3) specify the basis of the motion; and (4) certify that the movant has made a good-faith effort to resolve the dispute informally.

15. When addressing a motion to compel responses to discovery, the Commission has consistently held that it will “consider whether the information being sought is relevant to the proceeding, or reasonably calculated to lead to the discovery of admissible evidence.” See, Investigation into Whether Certain Calls are Local, Order No. 23,658 (2001) at 5. In City of Nashua, Order No. 24,681 (2006) at 2, the Commission stated that:

In the context of civil litigation, New Hampshire law favors liberal discovery ... and discovery is regarded as “an important procedure ‘for proving in advance of trial the adversary's claims and his possession or knowledge of information pertaining to the controversy between the parties.’” Consistent with Superior Court Rule 35(b) regarding the scope of discovery, we require parties to show that the information being sought in discovery is relevant to the proceeding or is reasonably calculated to lead to the discovery of admissible evidence.

City of Nashua, Order No. 24,681, citing, Yancey v. Yancey, 119 NH 197, 198 (1970); Johnston v. Lynch, 122 NH 79, 94 (1990).

Basis for Granting Motion to Compel

17. As grounds for objection, DOE asserts that the requests are objectionable because the requests “largely seek information that is irrelevant to this proceeding” (DOE Objection at

Paragraph 5). DOE further asserts that Requests 1-3 through 1-9 ask for specific details regarding the ongoing Business Process Audit undertaken pursuant to the Settlement Agreement and that “the conduct, progress, and conclusion of the Business Process Audit are not at issue in this step adjustment proceeding” (*Id.*). DOE also asserts that the answers to Requests 1-3 through 1-9 “will not lead to any evidence that is relevant or useful to the Commission in deciding whether to approve the requested rate increase which is designed to recover Eversource’s 2021 plant additions.” However, these claims are meritless for several reasons and should be overruled by the Commission.

18. First, DOE itself raised the issue of the Business Process Audit in the course of the direct testimony of Mr. Dudley, implying that there is a “historical pattern” or “consistent pattern” of cost overruns and “costs that should have been known,” which Staff previously identified in Docket No. 19-057, and that Mr. Dudley’s review of projects in this case indicates that these “patterns” are carrying over to projects presented in this proceeding for recovery. Specifically, Mr. Dudley and his attorney stated the following as part of direct testimony:

Mr. Dudley: And this kind of -- this *seems to follow, to us*, first, as Staff of the PUC, and now with the Department, kind of an *historical pattern* that Eversource has tended to follow, in terms of planning and scoping out some of these projects. And we, in the past rate case, in 19-057, we did notice several projects where this was a *consistent pattern*, that the project was halfway through completion, cost overruns occurred, and the "Lessons Learned" section of those Supplemental Request Forms indicated that, you know, some of the *costs should have been known* and should have been taken into consideration during the scoping process. And the descriptions of that are contained in my testimony in that docket, including my supplemental testimony.

Mr. Dexter: And is that one of the things that led the parties to that case to stipulate to the Business Process Audit that's ongoing now of Eversource's capital expenditure policies and practices?

Mr. Dudley: Yes. That is correct.

(Tr. 9/20/22, at 212-213, emphasis added).

Given this dialogue at hearing, it is difficult to see how DOE is now arguing that the Business Process Audit is not relevant to this proceeding. Mr. Dudley has effectively testified that: (1) there are “patterns” of project mismanagement that are carrying over to projects presented in this proceeding; and (2) those “patterns” are the reason that the Business Process Audit was undertaken to examine the Company’s practices (which the Company readily and thoroughly has supported since the audit commenced in the fall of 2021). This discourse opens Mr. Dudley to cross-examination on his assertions regarding the Company’s alleged “historical pattern” and “consistent pattern” of allegedly lacking capital-project management, as well as the purpose, scope *and outcome* of the Business Process Audit. Virtually all aspects of Mr. Dudley’s testimony at the September 20, 2022 hearing are issues that were raised in the last base-rate proceeding and that were directed to the Business Process Audit for examination and review to inform future prudence reviews, including the step adjustments. The results of the Business Process Audit now bear directly on this case given Mr. Dudley’s testimony and associated recommendations.

19. This Third Step Adjustment proceeding has one purpose, which is the implementation of Section 10.1(c) of the Settlement Agreement. The Step Adjustments and the Business Process Audit are interrelated provisions in the Settlement Agreement, with the Business Process Audit specifically designed to *inform the Commission’s review of the prudence of the Company’s capital projects*, given persistent criticism by DOE Staff that the Company’s capital project management practices are lacking. Specifically, the following provisions of the Settlement Agreement establish that the Business Process Audit was designed to inform the Step Adjustments both in terms of the Company’s production of the filing and associated documentation and in terms

of the demonstration of prudence. The provisions of the Settlement Agreement establishing this interaction are as follows:

20. Section 3, Plant in Service. Section 3.1 of the Settlement Agreement states that “Staff’s testimony includes observations and concerns about the Company’s documentation of certain capital projects involving their planning, budgeting and management.” Section 3.1 further states that, “to address this concern, the Company committed to work with Staff and OCA to develop a regulatory review template to “guide the development and production of capital project documentation generated through the Company’s capital authorization process.” The Company worked with Commission Staff to develop an interim template as part of the first step adjustment to provide a format that allows for a productive review of these historical projects. The Company used the interim format in the Second Step Adjustment and maintained the format for this Third Step Adjustment filing. In this filing, the Company also followed the template recommended by the Business Process Auditor (Exh. 1, Bates 027). DOE’s production of the Audit Report would indicate whether the Company has followed the regulatory template for this filing in furtherance of the prudence finding that the Commission must make in this docket.

21. Section 3, Plant in Service. Section 3.1 of the Settlement Agreement further states that “to the extent possible pending completion of the business process audit described in Section 3.2 below, the Company, Staff, and the OCA *intend to develop the template prior to May 2021 for incorporation into the Company’s step adjustment due May 1, as described in Section 10.*” DOE’s production of the Audit Report would indicate whether the Company has followed the regulatory template for this filing and is directly relevant to the demonstration of prudence given Mr. Dudley’s recommendations and testimony at hearing.

22. Section 3, Plant in Service. Section 3.2 of the Settlement Agreement expressly states that “the Company agrees to a business process audit of the Company” to “further address Staff’s concerns regarding the inconsistent documentation of capital projects, as described in Section 3.1” Given that Mr. Dudley has testified in this proceeding that the “historical” and “consistent patterns” are seeming “to follow” in this case and serve as the basis for his allegations on the Company’s step adjustment recovery in this case, information on the Business Process Audit, including the Report generated by the auditor is not only directly relevant, but is now required to allow for cross-examination of the testifying witness, Mr. Dudley.

23. Section 10.3, Step Adjustments. Section 10.3(d) states that “for the second and third step increases, the Company shall conform the documentation to the template to be agreed in accordance with Section 3, above, to the extent possible and subject to limitations that may exist in relation to the retroactive application of a new format.” The Business Process Audit was expressly designed to support the development of a documentation template to enable review and to limit disputes on project documentation and associated prudence. Therefore, the results of the Business Process Audit weigh directly on the merits of Mr. Dudley’s testimony in this proceeding.

24. Appendix 2, Settlement Agreement. Appendix 2 to the Settlement Agreement is entitled “Business Process Review Audit” and specifies that the business process audit “shall be conducted consistent with the process and scope set out in this attachment as specified below.” Below, the “process and scope” expressly includes “review and assessment of the Company’s capital planning, budgeting, approval, and management oversight, including eight areas of inquiry such as budgeting and approval for capital expenditures; information systems used to plan, track and account for capital work; *project design and estimation*; internal accounting; decision making by project managers; and reviews by upper management,” to name just a few (emphasis added).

Importantly, the allegations made by Mr. Dudley at the hearing on September 20, 2022 all go directly to the areas of inquiry for the Business Process Audit, most particularly, on the issue of cost estimation discussed by Mr. Dudley in his testimony at the September 20, 2022 hearing.

25. Appendix 2, Settlement Agreement. Similarly, Appendix 2, Item #2 of the Business Process Audit Scope is the “review and evaluation of capital project documentation,” including “use of Supplement Requests, including root cause analysis and lessons learned.” Note that Mr. Dudley testified directly on the “Lessons Learned” section of the Supplemental Request associated with the Goffstown Project as the basis for his recommendation to deny recovery (Tr. 9/20/22, at 211-212). Fundamentally, these types of claims are exactly the reason that the Business Process Audit was undertaken and because the results of the audit are available, the Audit Report must now be made available to inform the Company and the Commission on the merits of DOE’s continuing complaints on these issues. Any determination of imprudence on the basis of Mr. Dudley’s testimony will be unsupportable without production of the Audit Report and the associated cross-examination.

26. Request for Proposals Issued by DOE. On August 31, 2021, DOE issued a request for proposals for consulting services to conduct the business process audit required by the Settlement Agreement. A copy of the RFP is provided herewith as Attachment B. The highlighted sections of the RFP state that the Business Process Audit has resulted from Staff’s “filed testimony [in DE 19-057] recommending several capital project disallowances and ... asserting that the Company did not adequately analyze, explain or justify many of its capital investments and failed to comply with its own budgeting and oversight policies and procedures.” These are the same claims and assertions that DOE Staff is making in this proceeding and the results of the Business Process Audit go directly to the claims and assertions alleged by DOE Staff in this proceeding, as

a result of the September 20, 2022 hearing. The Company's due process rights require that the Business Process Audit Report be made available when completed by the auditors, in its original form, to the Company and the Commission to inform the record regarding claims that the Company's capital-project processes are lacking.

27. The RFP document provided as Attachment B to this Motion contains an Exhibit B (Scope of Services). All of the specific tasks listed for the Business Process Audit are directly relevant to the claims alleged by DOE Staff in this proceeding given Mr. Dudley's testimony and are appropriate points for cross examination. In particular, Task #3 of the Scope is "Selective Project Review." For the Selective Project Review, the consultant is directed to select a sample of capital projects for **2020 and 2021** to be included as part of the examination and testing of the Company's processes. This selective sampling would directly inform this proceeding given that the Company is requesting to recover the costs associated with 2021 projects as part of the Third Step Adjustment.

28. The Commission has consistently recognized that "New Hampshire law favors liberal discovery" and discovery extends to any information that "is relevant to the proceeding or reasonably calculated to lead to the discovery of admissible evidence." Public Service Company of New Hampshire, Investigation of Merrimack Station Scrubber Project and Cost Recovery, DE 11-250, Order No. 25, 398 (Aug. 7, 2012) p. 2. Following this principle, the Commission allows "wide-ranging discovery" and will deny discovery requests only when it "can perceive of no circumstance in which the requested data would be relevant." Re Lower Bartlett Water Precinct, 85 NH PUC 371,372 (2000). The New Hampshire courts have held that a party is entitled to "be fully informed and have access to all evidence favorable to his side of the issue. This is true whether the issue is one which has been raised by him or by his opponent, and whether the evidence

is in the possession of his opponent or someone else.” Scoutsas v. Citizens Insurance Co., 109 N.H. 386, 388 (1969). Under these principles, there is no merit to DOE’s objection and it should be overruled, expeditiously.

29. In this case, the Company is entitled to ask questions and obtain information as to the Business Process Audit through discovery, in order to cross-examine Mr. Dudley. Mr. Dudley’s testimony in this case rests on all the same claims as were raised in the Company’s base-rate proceeding, which drove the impetus for the Company to support the conduct of the Business Process Audit in the Settlement Agreement, for which the Company was fully cooperative, engaged, committed and responsive from its outset. Mr. Dudley’s testimony at the September 20, 2022 hearing specifically cites to the Business Process Audit and implies that the audit was needed because the Company’s project-estimation and management process is lacking – and has continued to be so since Docket No 19-057, in which he testified. Moreover, the RFP itself states that the Business Process Audit is designed to address concerns of DOE Staff in reviewing capital projects, which are the exact same concerns that Mr. Dudley testified to at the September 20, 2022 hearing. Accordingly, the audit report is necessary to cross Mr. Dudley on his conclusions and how his concerns were viewed through the audit findings and recommendations provided for in the Business Process Audit Report. The Audit Report therefore stands as a critical piece of information for the Company to have to prepare and conduct cross-examination.

30. In this proceeding, the Company has agreed to implement certain recommendations made by DOE’s Audit Division regarding the Third Step Adjustment, and further agreed to defer recovery of the costs associated with the Nashua Work Center Renovation and Millyard Substation Replacement projects until its next rate-case proceeding. The combination of these adjustments reduce the request for recovery from \$9.3 million to \$8.9 million. The Company submitted its

request for recovery on May 2, 2022 and participated in several technical sessions and discussions with DOE over four months and did not have the benefit of a statement of recommended disallowances until Friday, September 16, 2022. DOE's recommendations cut the amount of the step increase nearly in half, and recommended tens of millions of dollars of disallowances on the basis of imprudence. The Company has due process rights to challenge DOE's recommendations and to cross-examine Mr. Dudley on the basis of his testimony, which he asserts drove the need for the Business Process Audit to begin with. DOE's responses to the Company's discovery are not only directly relevant to Mr. Dudley's testimony, but are now critical to challenge the credibility thereof.

31. As grounds for objection, DOE further asserts that "Eversource did not request, nor was Eversource granted, an opportunity to conduct discovery" at the hearing conducted on September 20, 2022. DOE also asserts that "[w]ith this case now in the hearing phase, any time for Eversource to request approval to conduct discovery, and to issue discovery requests, has passed. Discovery is not appropriate at the hearing stage of the proceeding" (DOE Objection, Paragraph 3, 4). These grounds are meritless.

32. The Commission's procedural rules, Puc 203.09, state as follows:

- (a) The petitioner, the staff of the commission, the office of consumer advocate and any person granted intervenor status ***shall have the right to conduct discovery*** in an adjudicative proceeding pursuant to this rule.
- (b) ***Unless inconsistent with an applicable procedural order***, any person covered by this rule ***shall have the right*** to serve upon any party, data requests, which may consist of a written interrogatory or request for production of documents.

Rule Puc 203.09 (emphasis added).

33. There is no applicable procedural order that precludes the Company's discovery at this juncture. There is also no Commission rule or other legal standard that precludes discovery

during the hearing phase. DOE has cited no legal precedent, case law or other legal basis for its objections. DOE presented a witness at hearing to challenge the prudence of the Company's capital projects, recommending substantial disallowances on the basis of continuing inadequate practices that are the direct impetus for the Business Process Audit. Therefore, the results of the Business Process Audit is now discoverable under New Hampshire law and necessary for cross-examination.

34. Under New Hampshire law, a “party may conduct cross-examinations required for a full and true disclosure of the facts.” RSA 541-A:33. Given that Mr. Dudley did not submit pre-filed testimony, the first time that the Company was made aware of the actual extent of disallowances recommended by Mr. Dudley was by the September 16, 2022 list of recommendations submitted to the Commission and at the hearing conducted on September 20, 2022. Moreover, it was not until Mr. Dudley raised the issue of the Business Process Audit in his own direct examination, in the afternoon of the September 20, 2022 hearing, that the Company understood the nature of Mr. Dudley's persistent concerns on capital projects, and that those same concerns were the motivation for conducting the Business Process Audit in the first place. Therefore, it was not possible for the Company to issue discovery in advance of the hearing. In this case, a “full and true disclosure of the facts” cannot be obtained without DOE's responses to discovery. DOE has not cited any rules or legal precedent for the proposition that the Company's discovery is barred as a procedural or legal matter.

35. DOE's argument that the Company has somehow waived its right to discovery or that discovery is not appropriate at this stage of the proceeding is erroneous. The Commission's procedural rules state that a “petitioner ... shall have the right to conduct discovery in an adjudicative proceeding.” Puc 203.09 (a). The Company made no statement that it was waiving

its right to issue discovery, nor took any action conveying such an intent. The discovery that the Company issued to DOE arose exclusively because of Mr. Dudley's direct testimony at the hearing and Mr. Dexter's questioning thereof implying that the agreement to the Business Process Audit is proof that the Company's processes are lacking. Under the circumstances, the Company's issuance of data requests while at the hearing stage of the proceeding is not only entirely appropriate, but required by law regarding due process for an adjudicative proceeding.

36. DOE's responses to the Company's data requests must be obtained to inform cross-examination given the nature of Mr. Dudley's allegations in his direct testimony. Under New Hampshire law, "a party may conduct cross-examinations required for a full and true disclosure of the facts." RSA 541-A:33. The Company cannot develop a "full and true" disclosure of the facts without access to the results of the Business Process Audit and other information revealing facts and findings directly relevant to the Company's capital project management processes.

37. The undersigned counsel made a good faith effort to resolve this discovery issue informally with DOE as required by Puc 203.09(i)(4). The undersigned has discussed the issue with the Attorney for DOE; but, DOE has refused to provide the Company's requested information.

Relief Requested

38. For the reasons set forth above, the Commission should compel the DOE to respond to all of the Company's data requests. However, the Company also recognizes that the current procedural schedule for this matter does not allow adequate time for the Commission to rule on this Motion and for DOE to submit responses to the data requests prior to the October 17, 2022 hearing date. The Commission should not lose sight of the fact, however, that the Company issued its data requests on September 26, 2022 (four business days following Mr. Dudley's testimony at

the September 20, 2022 hearing) and DOE could have opted to simply answer the questions or to work with the Company to respond with production of the Audit Report, but forego other questions. Although DOE timely filed its objection on October 4, 2022, two weeks have elapsed since the Company propounded the discovery requests, which is more than sufficient time for DOE to produce the requested information.

40. The Company does not seek another delay of the October 17, 2022 and it is the Company's expectation that the Commission would be unable to issue an order allowing for rates effective November 1, 2022, if the hearing date is moved again. The Company will be prepared to move forward with cross-examination, regardless of the Commission's ruling on this Motion. However, the Company respectfully requests that the Commission either direct DOE to respond to the propounded discovery by Friday, October 14, 2022 or, in the alternative, direct DOE to provide the Audit Report in its possession in the form submitted to DOE by the consultants, immediately. If the Company is in receipt of the Audit Report delivered to DOE by the auditor, the Company can be prepared to ask the remainder of the data requests through cross-examination.

41. For all the reasons outlined above, the information sought by the Company is relevant to the proceeding and reasonably calculated to lead to the discovery of admissible evidence as to the prudence of the Company's capital projects completed in 2021, in response to the particular challenge levied by DOE Staff in this case. Moreover, the auditor's report, as delivered to DOE, is needed to address the Company's due process right to rebut DOE's assertions in this proceeding and the Commission's ability to evaluate the assertions made by DOE.

42. It is the Company's belief that DOE Staff received the report from the auditor at least several weeks ago, during the investigation of the Third Step Adjustment. The Business Process Audit report is otherwise unavailable to the Company for an undetermined timeframe. Should the

Company need to appeal any Commission decision in this proceeding, the Business Process Audit report would be an unwarranted omission on the record in light of the DOE's recommendations at the September 20, 2022 hearing.

WHEREFORE, Eversource respectfully requests that this Commission:

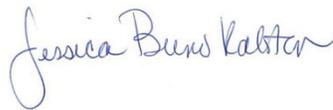
- A. Compel DOE to respond to the Company's propounded data requests no later than Friday, October 14, 2022 or, in the alternative, direct DOE to produce the response to Data request 1-8(e) immediately upon the Commission's ruling; and
- B. Grant such further relief as it deems appropriate.

Respectfully submitted,

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

By its Attorneys,

Date: October 10, 2022



By: _____
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Certificate of Service

I hereby certify that on October 10, 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