STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

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

2024 Energy Service Solicitations

Docket No. DE 24-046

EVERSOURCE RESPONSE TO COMMENTS SUBMITTED BY THE COMMUNITY POWER COALITION OF NEW HAMPSHIRE AND THE NRG RETAIL COMPANIES

Pursuant to the Commission's Order *Nisi* No. 27,034 (July 12, 2024) (the "Order"), Public Service Company of New Hampshire d/b/a Eversource Energy ("Eversource" or the "Company") hereby responds to the comments filed jointly on July 29, 2024 (the "Comments") by the Community Power Coalition of New Hampshire ("CPCNH") and the NRG Retail Companies[1] (together with CPCNH, the "Joint Commenters").

The Joint Commenters request that the Commission "order Eversource to maintain the Large Customer Group [Energy Service ("ES")] rates currently in effect while the Commission re-evaluates Eversource's proposed ES rates, or, in the alternative, to only approve the Large Customer Group ES rates for effect from August 1, 2024 through August 31, 2024 and revise those rates effective September 1, 2024." Comments at 2, 3, and 9. They support that request by asserting that the Commission's approval of ES rates excluding the deferred balance of $6.5 million in Large Customer

[1] The "NRG Retail Companies" are Direct Energy Services LLC; Direct Energy Business, LLC d/b/a NRG Business; NRG Business Marketing, LLC (f/k/a Direct Energy Business Marketing LLC); Reliant Energy Northeast LLC d/b/a NRG Home; and XOOM Energy New Hampshire, LLC.

Group under-recoveries contravenes the Electric Utility Restructuring Act,[2] violates cost causation principles, represents a deviation from Commission precedent, and "will unduly harm the development of competitive markets and consumers." *Id.*

The Company believes there is no basis for revising the Commission's Order approving the ES rates, whether for effect on August 1st, September 1st, or any other date, and that the Joint Commenters' expressed concerns regarding the potential change in over- and under-recovery balance reconciliation and recovery from the ES rate to the Stranded Cost Recovery Charge ("SCRC") rate can be considered in the context of the Company's SCRC rate adjustment proposal to be submitted later this year.[3] In support of this response, the Company states as follows:

1. At the heart of the Joint Commenters' position is the argument that the Company's approved ES rates are anti-competitive. But that argument misses a crucial distinction between utility default service and alternative offerings like those provided by competitive electric power suppliers ("CEPS") and community power aggregation ("CPA") programs: default service is not provided as a competitive alternative to such competitive supply options; rather, the Company and other electric distribution utilities are required to provide default service to their customers under the Restructuring Act,[4] and they do so on a straight pass-through basis with no return and no opportunity for profit. In essence, utility default service is provided for the benefit of all electric customers as a required "backstop service" under the Restructuring Act.

[2] The 1996 Electric Utility Restructuring Act, RSA Chapter 374-F (the "Restructuring Act").

[3] There is some overlap in issues between those addressed in the Company's response to the Joint Commenters' motion for rehearing of Order No. 27,022 filed on July 19, 2024 and those raised in the Comments. The Company will endeavor to avoid redundancy by not repeating all of those points in this response.

[4] *See* RSA 374-F:2, I-a and RSA 374-F:3, V.

2. The Restructuring Act, at RSA 374-F:3, V(a)-(e), sets forth a number of principles for the provision of utility default service, some of which are quoted in the Comments. It is important to note that many of these are merely aspirational "principles" (i.e., things that "should" be done) as opposed to binding obligations or mandates (i.e., things that "shall" or "must" be done). And, in many cases, even these non-binding principles must be balanced in their consideration as they may pull in different directions.[5] Moreover, the New Hampshire Supreme Court has held that "the primary intent of the legislature in enacting RSA chapter 374–F was to reduce electricity costs to consumers . . . [rather than] "to introduce competition to the generation of electricity."" *Algonquin Gas Transmission, LLC*, 170 N.H. 763, 770, 774 (2018) (internal citations omitted).

3. In this legal and regulatory context, the most relevant provision of the Restructuring Act is RSA 374-F:3, V(e), which provides that:

> Notwithstanding any provision of subparagraphs (b) and (c), as competitive markets develop, the commission may approve alternative means of providing transition or default services which are designed to minimize customer risk, not unduly harm the development of competitive markets, and mitigate against price volatility without creating new deferred costs, if the commission determines such means to be in the public interest.

The principles covered by that provision include customer risk reduction and price volatility mitigation, as well as avoiding undue harm to competitive markets. And those principles must be considered in view of the overriding legislative purpose of the

[5] The Joint Commenters cite RSA 374-F:3,V(c), which requires that "[a]ny prudently incurred costs arising from compliance with the renewable portfolio standards of RSA 362-F for default service *or purchased power agreements* shall be recovered through the default service charge." (emphasis added). *See* Comments at 3-5. The term "purchased power agreements" is not defined in the Restructuring Act, but it should be interpreted in context to reference "multi-year agreements for energy, in conjunction with or independent of any attendant environmental attributes from electric energy sources," as permitted to be approved under RSA 374-F:11 Purchased Power Agreements, rather than the six-month all-requirements, load-following energy supply contracts entered into by the Company with its wholesale power suppliers to provide default service to ES rate customers.

Restructuring Act to reduce electricity costs to consumers, as expressly recognized by the Court in the *Algonquin* decision.

4. The ongoing load migration in the Large Customer Group, and the related increases in the under-recovery balances carried by the Company, have created an unsustainable situation that threatens to adversely affect the ability to provide reasonable ES rates to the large customers remaining on the Company's "backstop" default service. Those remaining customers may have chosen to remain on default service, or they may effectively have no other option, as a result of creditworthiness issues of concern to CEPS or the lack of CPA programs in their municipal locations. Such customers must rely on utility default service as their only practical alternative for obtaining electric supply, and they must be able to obtain that needed supply at reasonable rates. The Commission implicitly acknowledged the problem of large and growing cost under-recoveries for the Large Customer Group due to load migration when it indicated its agreement with the Company that "having the ES Reconciliation Adjustment Factor costs assessed through the SCRC could be an equitable and reasonable approach, due to the "backstop" nature of ES." Order No. 27,022 at 9.

5. In order for mandated utility default service – which serves as a "backstop" service available at all times to all utility customers – to be provided on a sustainable basis, the public interest now requires consideration of an alternative in which default service cost over- and under-recoveries are collected from all distribution customers through the SCRC or a similar reconciling rate mechanism.[6] And the Commission reasonably decided that the potential transition to such a new cost recovery mechanism

[6] This approach is consistent with how Eversource affiliate NSTAR Electric collects similar costs related to the provision of "basic service" in Massachusetts.

warrants a near-term deferral of the current Large Customer Group under-recovery balance for a limited period of time. Under these circumstances, the alternative ES Reconciliation Adjustment Factor cost recovery mechanism proposed by the Company in this docket is fully consistent with the fundamental principles described in the Restructuring Act and with the overriding public interest, as contemplated by RSA 374-F:3, V(e). And the near-term deferral of the approximately $6.5 million Large Customer Group under-recovery balance is a reasonable transitional step in that direction.

6. The Joint Commenters further assert that the Company "could have avoided a significant portion of the under-recovery by adjusting the load forecasts that it used to support the proposed Large Customer Group ES rates in 2023," based on migration data available at that time, but its "projected load failed to adequately account for this migration." Comments at 8-9. But the substantial load migration that occurred as a result of the impressive success of CPA opt-out programs over the past year could not have been foreseen or accurately predicted by the Company. And its large customers remaining on default ES service should not be unduly burdened by that unforeseen load migration and related decrease in revenues from those assumed in the ES rates set last year.

7. Finally, the specific relief sought by the Joint Commenters is neither just nor reasonable. Implementing a last-minute dramatic increase in Large Customer Group ES rates would upset customer plans and market expectations. Implementing an interim change in ES rates as of September 1st or any other near-term date would have similarly disruptive impacts. And under no circumstances should ES rates be maintained at the "rates currently in effect while the Commission re-evaluates Eversource's proposed ES rates," as the current ES rates are based on wholesale market conditions that were

applicable over six months ago and do not reflect recent changes in those market conditions. There is simply no basis for modifying the Commission's approval of the ES rates through the Order, nor for rescinding its prior directive to defer the $6.5 million Large Customer Group under-recovery balance.

WHEREFORE, Eversource respectfully requests that the Commission consider this response and deny the Joint Commenters' request for a near-term change in the ES rates as proposed by the Company and approved by the Commission in the Order, and order such other and further relief as may be just and equitable in the circumstances.

Respectfully submitted,

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE D/B/A EVERSOURCE ENERGY

Date: July 31, 2024

By: ***/s/ David K. Wiesner***

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CERTIFICATE OF SERVICE

I hereby certify that, on the date written below, I caused the attached to be served pursuant to N.H. Code Admin. Rule Puc 203.11.

Date: July 31, 2024

/s/ David K. Wiesner
David K. Wiesner