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September 18, 2015

NHPUC 18SEP15PM9:50

Debra Howland
Executive Director
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

RE: Docket No. DE 15-372, Complaint of Steels Pond Hydro Against Eversource Energy

Response of Eversource

Dear Director Howland:

On September 15, 2015 Public Service Company of New Hampshire d/b/a Eversource Energy ("Eversource") received from the Commission a notice of a complaint (the "Complaint") that had been filed on behalf of Steels Pond Hydro, Inc. ("SPH"). In its notification of the submission to Eversource, the Commission stated that it was treating the submission as a complaint pursuant to RSA 365:1 and :2 and required Eversource to respond on or by September 28, 2015. Eversource herein provides its response to the Complaint as required by PART Puc 204 and the Commission's September 15, 2015 letter.

Relative to the above Complaint, the Complaint notes that SPH is the owner of a small¹ (under 1 MW) hydroelectric generation station in Antrim and that Eversource had been purchasing the output of the station at Eversource's avoided cost rates consistent with its rates for purchases from Qualifying Facilities ("QFs"). SPH has recently become a net metered customer-generator and "group host" pursuant to RSA 362-A:9 and the Commission's PART Puc 900 regulations and, in that role, it is compensated for its generation at Eversource's prevailing default service rate. SPH also states that for purposes of participating in the Forward Capacity Market ("FCM") administered by the regional grid operator, ISO-New England, SPH has designated Eversource as its Lead Participant in that market and that Eversource had been passing FCM revenue through to SPH. According to the Complaint, Eversource has ceased passing through the FCM revenue to SPH and SPH requests that the Commission order Eversource to pass the revenue through. In addition, SPH is requesting that the Commission "permit" it to enter into an agreement with a separate Lead Participant for participation in the FCM. Pursuant to Puc 204.03(a)(2) Eversource hereby advises the Commission that it disputes the Complaint and contends that it should be dismissed.

¹ Though SPH's facility is under 1 MW it has a generating capacity greater than 100 kw. Therefore, it qualifies as a "large customer-generator" for purposes of net metering. Puc 902.15.

Initially, and before addressing the substance of the Complaint, Eversource notes one especially relevant issue. Pursuant to RSA 362-A:9, I, net metering “shall be made available to eligible customer-generators by each electric distribution utility *in conformance with net metering rules adopted and orders issued by the commission.*” (emphasis added). Pursuant to Puc 909.08, distribution utilities, such as Eversource, are to compensate hosts that are large customer-generators at a rate “equal to the distribution utility’s default service rate.” Puc 909.08(c). Furthermore, “For all hosts, by June 1 of each year the distribution utility shall determine for the prior year whether the host’s surplus generation exceeded the group’s total electricity use. *If so, the host shall only be entitled to compensation for that excess generation at the avoided cost or default service rate.*” Puc 909.08(d) (emphasis added).

As Eversource understands the Complaint, SPH is seeking to be compensated both at the default service rate as a net metered generator, as well as through receipt of FCM revenue. While the Complaint does not provide any reason for such a compensation scheme, to the extent that such compensation is what SPH seeks, given that the Commission’s rules state that the large customer-generator host “shall” be entitled “only” to compensation at the default service rate, there is at least some question about whether that compensation is permitted by RSA 362-A:9 and the Commission’s rules. Eversource contends that the rules speak for themselves and that they set out the relevant compensation due to SPH. Therefore, the Complaint should be dismissed on its face.

If, however, the Commission may determine that there are underlying matters to address, Eversource requests that the Commission dismiss this matter as a complaint and continue it as a generic docket. In that the Complaint concerns the administration of the Commission’s rules, it appears more appropriate for this complaint to be treated not as a complaint about Eversource’s practice but either as a request for a declaratory ruling about the meaning and application of the Commission’s rules, *see* PART Puc 207, or as a request to commence a rule making proceeding to address a matter covered in the rules, *see* PART Puc 205.² As part of such generic docket it will also be necessary to determine whether any issues SPH is raising with respect to the administration of funds from the FCM actually fall within the Commission’s jurisdiction.

Turning more directly to the matters covered in the Complaint, as set out above, the Commission’s rules require that the utility compensate the host customer-generator at the default service rate. Eversource’s tariff defines its default service rate, in relevant part, as “Electric energy *and capacity* supplied to a Customer by the Company.” NHPUC Tariff No. 8, 1st Revised Page 7. Capacity is also included in the default service costs of New Hampshire’s other regulated electric utilities. *See Granite State Electric Company*, Order No. 24,922 (December 18, 2008) at 12-13; *Unitil Energy Systems, Inc.* Order No. 25,777 (April 10, 2015) at 5. Accordingly, in that capacity costs are included in the calculation of the default service rate, by being compensated for its excess generation at the default service rate, a host such as SPH is

² Eversource notes also that there is a presently outstanding request for a rule making relating to the calculation of avoided costs for purchases from QFs, which the Commission has docketed as Docket No. DRM 15-340. As part of that rule making, Eversource has proposed regulations that would govern various aspects of the relationships between utilities and QFs, including issues relating to the calculation of compensation for capacity and the costs to the utility for acting as the lead participant for QFs (which utilities have often done at low or no charge to the QFs). It may well be that the issues here are more appropriately addressed as part of such a rule making.

already being paid for capacity. SPH has provided no reason why it should be compensated for capacity as part of the default service rate, and again as part of the FCM. If SPH wishes to be compensated for the capacity directly, it can elect to sell its power (including energy and capacity) to a utility as a QF, or it can elect to be compensated as a net metered host. SPH provides no reason that it should benefit from being compensated through both arrangements.

Moreover, the FCM is a wholesale market administered by ISO-NE while a customer-generator under net metering is one with a generating facility that is “located behind a retail meter on the customer’s premises, is interconnected and operates in parallel with the electric grid, and is used to offset the customer’s own electricity requirements.” RSA 362-A:1-a, II-b; Puc 902.03. The Complaint provides no basis for why SPH believes it qualifies to receive revenue from the wholesale FCM while at the same time operating a facility that is located behind a retail meter and which uses that facility to offset its own retail load. In short, SPH has not demonstrated any claim to, or justification for, receiving FCM revenue along with the default service payments it receives pursuant to the net metering law and rules and has provided no foundation for any complaint against Eversource.

Apart from the issues discussed above, Eversource raises one other matter with respect to the Complaint. The Complaint states that “Steels Pond designated Eversource to serve as Lead Participant for the Facility at ISO-NE. This is a voluntary arrangement, and according to ISO-NE can be terminated at any time by Steels Pond.” Complaint at ¶9. In its requests for relief, however, SPH asks that the Commission “Permit Steels Pond to enter into an agreement with a different ‘lead participant’ who will pass the FCM payments on to Steels Pond as permitted under the ISO rules.” Complaint Request C. Though it is not entirely clear what SPH would intend to do or what permission it may require, any discussion of methods to provide the requested relief, including the termination of Eversource as the Lead Participant for SPH in the ISO-NE FCM, is premature until the threshold matter of proper compensation is resolved.

Accordingly, for the reasons stated above, Eversource has contends that it has acted reasonably, appropriately, legally and in line with the law and the Commission’s rules and policies in this instance and that the Complaint should be dismissed. Additionally, this matter, if not dismissed entirely, should be handled through a generic proceeding because a resolution here will affect the administration of net metering for all utilities and eligible QFs. Therefore, and as stated, Eversource disputes the Complaint.

Thank you for your assistance with this matter. Please do not hesitate to contact me with any questions.

Very truly yours,



Matthew J. Fossum
Senior Counsel

CC: Service List