



780 N. Commercial Street
P.O. Box 330
Manchester, NH 03105-0330

Jessica A. Chiavara
Senior Counsel

Phone: 603-634-2972
Jessica.Chiavara@eversource.com

May 15, 2024

Via Electronic Mail Only

New Hampshire Department of Energy
Molly M. Lynch, Esq.
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

RE: **CPT 2024-005** Complaint of Kearsarge Solar LLC, ReWild Renewables, LLC, and
Lodestar Energy LLC against Public Service Company of New Hampshire d/b/a
Eversource Energy
PSNH d/b/a Eversource objection to complainants' motion

Attorney Lynch:

Pursuant to Puc 203.07(e), please find the attached objection to the motion filed on
May 6, 2024 by the complainants to this docket for filing with the New Hampshire Department of
Energy on behalf of Public Service Company of New Hampshire d/b/a Eversource Energy.

Consistent with current Commission policy this filing is being made electronically only;
paper copies will not follow. If you have any questions, please contact me. Thank you for your
assistance with this matter.

Thank you,

A handwritten signature in black ink, appearing to read "J. Chiavara", written in a cursive style.

Jessica A. Chiavara
Senior Counsel, Eversource Energy

Attachment

cc: Amy Manzelli, ReWild Renewables, LLC; Lodestar Energy LLC; and Office of the
Consumer Advocate.

STATE OF NEW HAMPSHIRE
before the
DEPARTMENT OF ENERGY

CPT 2024-005

Complaint of Kearsarge Solar LLC, ReWild Renewables, LLC, and Lodestar Energy LLC
against Public Service Company of New Hampshire d/b/a Eversource Energy

EVERSOURCE OBJECTION TO COMPLAINANTS'

MOTION TO AMEND COMPLAINT

Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource” or the “Company”) hereby objects, pursuant to Puc 203.07(e), to the motion and supporting materials submitted by Kearsarge Solar, LLC, ReWild Renewables, LLC, and Lodestar Energy LLC (together, the “Complainants”) to the New Hampshire Department of Energy (the “Department” or “DOE”) in this DOE complaint docket on May 6, 2024 (the “Motion”). In brief, the Motion fails to meet the requirement of Puc 203.10(a)(2) that an amendment encourage the just resolution of a proceeding and not cause undue delay. The Motion is nothing more than an ineffective attempt at a second bite of the apple; it presents no newly discovered facts or even additional, previously known facts that would facilitate a determination in this matter. And the Motion’s citations to new rules is nothing more than a failed attempt to keep an otherwise meritless and facially deficient complaint, as effectively conceded by the Complainants, alive without any basis for doing so, contrary to the purpose of Puc 203.10. In support of this objection, Eversource states the following:

1. The Complainants filed their complaint with the Department on March 18, 2024, stating that Eversource was in violation of three provisions of the Puc 900 rules pertaining to 28 of the Complainants’ distributed generation (“DG”) applications for interconnection to the grid, but they did not state which provisions allegedly applied to which of those projects. During the response period, Eversource made a request that the Complainants provide this information, so that the

Company could properly respond to the complaint. When the Complainants responded, they conceded that none of the cited Puc 900 rules were being violated nor did they even apply to any of the 28 projects,¹ thereby leaving the complaint devoid of any allegation of violation of any rule, Commission order, Company tariff, or statute within the Department's jurisdiction.²

2. On May 6, 2024, the Complainants filed the Motion, stating that the purpose was to “clarify their allegations” of violations of the Puc 900 rules. But the Motion does no such thing; rather, it is a hasty attempt to resuscitate the fatally-flawed original complaint that cited to three separate Puc 900 rule provisions, none of which applied, and swapping those out with two totally different Puc 900 rule provisions. The Motion cannot possibly be construed as a clarification of the original complaint. There was no ambiguity in the original allegations as is stated in the Motion. The complaint, while plainly unfounded, had no lack of clarity as to the allegations, except for the failure to specify to which of the 28 projects each of the three rule provisions applied. Nowhere in the original complaint did the two Puc 900 rule provisions the Motion tries to add to the complaint appear; instead, the Motion's proposal to add them is a flagrant attempt to salvage a meritless complaint.

3. The proposed edits to the text of the complaint are equally faulty. There is no new material fact introduced in the proposed changes to the complaint. In fact, the proposed changes to the complaint are guilty of the same fatal flaw as the original complaint: they make conclusory assertions that Eversource is “unreasonably delaying” interconnection, without providing any corresponding facts to support that conclusion, except for the length of time that the application

¹ See Attachment A to the Eversource response to the complaint in this matter, filed on April 22, 2024.

² The complaint makes various breach of contract claims, each of which Eversource denies, over which the Department has no jurisdiction. For a discussion of the breach of contract claims, please see the Eversource response to the complaint in this docket at page 8.

took or is taking to process. Without a mandated timeline in the rules, the processing time for an application alone cannot comprise a violation of the Puc 900 rules the Motion proposes to add to the complaint. The Motion entirely fails to provide any factual support demonstrating that Eversource has “unreasonably withheld its permission to interconnect,” in violation of Puc 903.01, or any support at all for the claim that Eversource has violated Puc 903.02, which is stated with no argument whatsoever except to reiterate the flawed argument for Puc 903.01 by reference.³

4. Eversource already addressed the lack of merit in the Motion’s proposed added rule provisions in the Company’s response to the complaint, where Eversource noted that simply listing the rule provisions does not comprise a valid allegation without specific facts to support a claim that a violation exists. The Complainants’ attempt to supplement the complaint by saying “keeping a project on hold for close to two years . . . is unreasonably withholding its permission to interconnect”⁴ effectively does nothing more. Moreover, nineteen months is not almost two years, and the Company did not keep the project “on hold” at all—it was actively processing the project application (for which the Company since has issued an interconnection agreement and which Kearsarge has requested to amend twice). Regardless, the simple fact is that 19 months does not comprise an unreasonable delay *as a matter of law*, and the Complainants do not provide sufficient facts to support a claim that Eversource violated Puc 903.01 or any other rule provision.

5. The Motion’s claim that amending the complaint will encourage just resolution and not encourage any undue delay is patently false. The original complaint brought claims that have all been withdrawn and the Motion is trying to add new rule provisions that also fail to support the

³ See Motion Exhibit B at pages 13-14.

⁴ *Id.* at 12.

same baseless assertions in the original complaint. Any perpetuation of what has demonstrated to be a frivolous complaint is itself an undue delay to the resolution of this proceeding, and continuation of this proceeding itself would be unjust. Any continuation of this matter would constitute an undue delay, as the Complainants have effectively conceded that they brought a complaint with no valid allegations. The assertions in the Motion are so egregiously unsupported as to border on bad faith, a further example of which being the claim that the amendment would narrow the scope of the proceedings by asserting a smaller set of rule violations. While it is certainly true that two rules is less than three, the Company already has had to vet all 28 projects for violations of the previous three alleged rule violations and provide a comprehensive response to the original complaint. “Narrowing” the scope to the two proposed rule provisions cited in the Motion actually doubles the scope by hitting the reset button on a baseless complaint and starting the process all over again with brand new provisions to apply to all 28 projects. Such disingenuous litigation tactics should not be tolerated through further continuation of this matter.

6. As a final note, the proposed amended complaint now “request[s] this relief on behalf of themselves and all similarly situated solar developers applying to interconnect to the grid.” *See* Motion, Exhibit B at page 19. But the Complainants cannot seek relief for parties they do not represent, and if the Motion were to be granted, this request for relief should be excluded under any circumstances.

7. The statement in the Motion that this matter is in the “beginning stages” is contingent on how the Department disposes of the Motion and the complaint, and Eversource recommends the denial of the former and the dismissal of the latter with all due haste, as that would represent the only just resolution of this matter.

WHEREFORE, Eversource respectfully requests that the Department:

1. Deny Complainants' Motion as contrary to Puc 203.10, dismiss the complaint with prejudice, and close the docket, as there is no valid allegation of a violation of any law, rule, Commission order, or Company tariff; or, alternatively,
2. If the Department grants the Motion, dismiss the complaint with prejudice and close the docket, because even with the amendment sought by the Motion, the complaint is facially deficient as it fails to make a valid allegation of a violation of any law, rule, Commission order, or Company tariff that is supported by any relevant facts.

Respectfully submitted this 15th day of May, 2024

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



By:
Jessica A. Chiavara
Senior Counsel
Public Service Company of New Hampshire d/b/a Eversource Energy
780 N. Commercial Street
Manchester, NH 03101
603-634-2972
Jessica.chiavara@eversource.com

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.

Dated: May 15, 2024



Jessica A. Chiavara