

## **Eversource Energy Legal Risk Assessment Process & Considerations**

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Eversource Energy (NYSE: ES) is a \$31B Fortune 500 energy company based in Connecticut and Massachusetts, and operates New England's largest utility system serving nearly four million electric, natural gas, and water customers in Connecticut, Massachusetts, and New Hampshire. We are in the business of delivering energy solutions safely, reliably and sustainably to our customers.

Eversource is not in business to litigate, and litigation rarely contributes to our primary business objectives. Disputes, however, arise in the normal course of our business. We depend on many different types of commercial, IT, large equipment procurement and service, power purchase, engineering, design and construction contracts, among others, all ripe with the potential for disputes, and many with companies with whom we do repeat business.

Eversource recognizes that for many disputes, there is a less expensive, more effective method of resolution than the traditional lawsuit. Eversource is a long-standing signatory to the International Institute for Conflict Prevention & Resolution ("CPR") Corporate Policy Statement on Alternatives to Litigation<sup>®</sup>. In the event of a business dispute between Eversource and another company that has made or will make a similar statement, Eversource is prepared to explore with that party resolution of the dispute through negotiation or ADR techniques before pursuing litigation. If either party believes that the dispute is not suitable for ADR techniques, or if such techniques do not produce satisfactory results, then either party may proceed with litigation. In addition, Eversource is a founding signatory to the CPR 21<sup>st</sup> Century Corporate ADR Pledge<sup>®</sup> pursuant to which it agrees to commit its resources to manage and resolve disputes through negotiation, mediation, and other ADR processes when appropriate, with a view to establishing and practicing global, sustainable dispute management and resolution processes.

Eversource has 34 inhouse lawyers, of which 6 are members of the Dispute Resolution Group. Along with our 3 labor and employment attorneys, the inhouse team directly handles over 80% of the company's disputes and litigation. The approximately 20% of cases on which outside counsel are engaged also have a dispute resolution lawyer from the legal department assigned on the matter. Our inhouse lawyers work closely with the business and participate in regular business, risk, and operations meetings. Their familiarity with the business, business and strategic initiatives, and business

representatives position our inhouse attorneys to provide day-to-day advice on how to minimize legal, business and strategic risk, including the risk of disputes. It also enables them to serve as early warning indicators of potential disputes and conflicts. Once potential disputes are identified, our inhouse attorneys work with the appropriate business representatives to try to resolve them on business terms.

Many of our commercial contracts include stepped ADR provisions that involve executive negotiation, mediation, and arbitration of all disputes. These contracts provide a natural transition from informal negotiation to binding arbitration. We have found that in the organic escalation of disputes up through progressive layers of management – as the dispute proceeds from informal negotiation to executive negotiation to mediation – most disputes get resolved well short of binding arbitration, and many before formal mediation. The further we have to proceed down the formal dispute resolution steps toward a binding determination, the higher the level of management engagement, time, and attention that is required. Accordingly, there is a natural incentive to try to resolve disputes earlier and at lower levels of management.

As part of our Outside Counsel Guidelines, we place expectations on our law firms to sign or recognize the principles contained in the CPR Law Firm Policy Statement on Alternatives to Litigation<sup>®</sup>. We expect our firms to recognize that for many disputes, there may be methods more effective for resolution than traditional litigation, and we require them to ensure that the lawyers assigned to work on Eversource dispute matters are knowledgeable about ADR techniques. Where appropriate, we expect the responsible firm attorney to discuss with the lead Eversource inhouse attorney on a matter the availability of ADR processes so that we can make an informed choice concerning resolution of the dispute. Indeed, in some cases, our inhouse lawyers have worked closely with our outside counsel to design case-specific ADR processes to enhance the opportunity for business resolution of the dispute, as well as a more efficient binding decision-making process in the event nonbinding means were unsuccessful.

Most large disputes and B2B disputes fall within the scope of Eversource's Case Management Plan & Budget process, which is part of our Outside Counsel Guidelines. The Case Management Plan is a template for our outside counsel (and inhouse counsel) to use in performing early case assessments (ECA) of these larger, more complex, or more sensitive disputes. The ECA process provides a framework for our attorneys (inhouse and outside) to consider and evaluate the following:

- potential liability of the company (including the percentage probability of success on key issues, claims, defenses, counterclaims, cross-claims, and third-party claims).

- potential exposure of the company (including damages, other relief sought, recoverable attorneys' fees, set-offs, indemnities, insurance coverage, and contribution).
- potential impact on the business through disruption of operations, distraction of management or key employees.
- potential for adverse or unfavorable publicity, or regulatory or political action.
- potential for early disposition through negotiation, ADR, or motion. Our rebuttable presumption is that cases should proceed promptly to formal mediation, generally within 90-120 days of filing.

Once an ECA is developed in a case, it is discussed with the responsible business representatives and it helps establish a plan for resolving or adjudicating the dispute. The Case Management Plan is a “living document” that gets updated and revised periodically as information relevant to the evaluation of the case develops.

In the end, Eversource is not in the litigation business and, while litigation or arbitration sometimes is necessary, Eversource uses the array of dispute resolution tools, processes, and techniques described above to prioritize its business and strategic interests for the benefit of its customers, shareholders, and employees.