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N.H.P.U.C. Case No. DE 13-244
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Witness J. Wossam, H. Tebbetts
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STATE OF NEW HAMPSHIIRE Before the PUBLIC UTILITIES COMMISSION

Docket No. IR 13-244

Investigation into Payment Hierarchy between Competitive Energy Suppliers and Electric Distribution Utilities

Stipulation and Settlement Agreement Regarding Allocation of Customer Payment between Competitive Suppliers and Electric Distribution Utilities

This Stipulation and Settlement ("Settlement Agreement") is entered into this __ day of March, 2014, by and among Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities ("Liberty"), New Hampshire Electric Cooperative ("NHEC"), Public Service Company of New Hampshire ("PSNH"), Unitil Energy Systems, Inc. ("Unitil"), Electricity N.H., LLC d/b/a E.N.H. Power ("ENH"), North American Power and Gas, LLC ("NAPG"), PNE Energy Supply, LLC ("PNE"), Retail Energy Supply Association ("RESA"), and the Staff of the New Hampshire Public Utilities Commission ("Staff") (collectively the "Settling Parties"). This Settlement Agreement is intended to resolve all outstanding issues in the above-captioned docket.

I. INTRODUCTION

On August 20, 2013, the Commission issued an Order of Notice to investigate whether the current payment hierarchies used by PSNH, Unitil, Liberty and NHEC (collectively the Utilities) were consistent with the restructuring principles of RSA 374-F:3, whether changes in the current payment hierarchies were warranted and the effects, if any, of such changes on the Utilities. The Commission also indicated that it wished to review related customer communication issues. NAPG, ENH, PNE and RESA (Intervening Suppliers) intervened in the proceeding, and the OCA filed a letter notifying the Commission of its participation in this proceeding pursuant to RSA 363:28.

A prehearing conference was held on September 20, 2013. The parties met in a technical session following the prehearing conference, and Staff proposed a procedural schedule by letter dated September 24, 2013. In that letter, Staff informed the Commission that the parties agreed to attempt to settle the issues in the docket.

On October 11, 2013, ENH on behalf of the Intervening Suppliers provided testimony and related exhibits which represented the Intervening Suppliers' proposal for a revised payment hierarchy in the event of a partial customer payment. The parties met in technical session and reached an agreement in principle regarding both the payment hierarchy and customer communication issues. On November 18, 2013, Staff filed a letter with the Commission requesting suspension of the procedural schedule to allow time to memorialize the agreement,

and the Commission granted that request on November 18, 2013. Further modifications of the procedural schedule were requested on January 30, 2014 and February 24, 2014 and granted by the Commission on February 3, 2014 and February 26, 2014. A hearing was scheduled for March 20, 2014.

II. TERMS OF AGREEMENT

A. Payment Hierarchy

- 1. The Utilities agree to adopt a payment hierarchy that pays competitive electric power suppliers' (CEPS) past due receivables prior to the utility's current receivables as described further in this section.
- 2. NHEC and PSNH agree to change their current payment hierarchies to reflect the following, in order of payment priority: (a) Utility outstanding deposit obligations; (b) Utility current payment arrangement obligations, if any; (c) any Utility budget billing arrangement obligations; (d) Utility and CEPS aged accounts receivables, with a priority for the Utility's aged receivables; (e) Utility and CEPS current charges, with a priority for the Utility's current charges; (f) any miscellaneous non-electric service product and services.
- 3. Liberty and Unitil shall maintain their current payment hierarchies or adopt the payment hierarchy set forth in Section II, A, 2 above.
- 4. The identified costs associated with the Utilities' IT enhancements needed to implement the payment hierarchy structure set forth in II, A, 2 are set forth in Section II below and shall be recovered by the Utilities as specified in Section II, D.

B. Sync Report

- 1. Each Utility agrees to provide, upon request, a Sync Report to a competitive supplier no more frequently than once a month.
- 2. The Sync Report shall be provided in the electronic format most cost effective for the utility and shall provide information allowing the competitive supplier to "sync" its customer records with that of the utility. A sample Sync Report is included as Attachment A to this settlement.

C. <u>Utility Disclosure of Customer Participation in Budget Billing and Payment Plans</u>

1. Each Utility shall adopt a process to disclose through electronic data interchange (EDI) transactions or monthly electronic communications provided to CEPS whether each customer of a CEPS is, at the then-current time, on a budget billing plan or a payment plan with the Utility.

- 2. NHEC and PSNH agree to provide the budget billing or payment plan status of customers to CEPS in either the form of monthly electronic communications or through EDI transactions.
- 3. The Settling Parties acknowledge that Liberty and Unitil are currently engaged in IT system conversions and are unable to commit to either an EDI and/or other electronic processes changes that would accommodate disclosure of customer participation in budget billing and payment plans at the present time. Accordingly, the provision of this information by Liberty and Unitil is not addressed in this Settlement Agreement. Liberty and Unitil commit to use good faith efforts to develop monthly electronic communication processes or adopt EDI transactions that identify customers who are on budget billing or payment plans with the Utility, providing that information on a monthly basis to those CEPS requesting such information. The implementation details and any cost recovery shall be determined in a separate agreement or phase of this proceeding.
- 4. The identified costs associated with the disclosure of budget billing and payment plan information are set forth below in Section II, D and shall be recovered by the Utilities as specified in Section II, D.

D. Cost Recovery.

- 1. The identified costs associated with the Utility IT efforts to implement the changes set forth above benefit all CEPS that have elected to use consolidated billing; therefore, the costs shall be recovered from all licensed CEPS participating in the respective Utility's consolidated billing in the State of New Hampshire as of the date the Commission issues its order approving the terms and conditions of this Settlement Agreement.
- 2. Costs shall be allocated to all licensed CEPS that have elected to use consolidated billing as a one-time, equal, per Company charge.
- 3. PSNH is the only Utility that has identified costs regarding the operational or computer changes needed to implement the changes identified in this Settlement Agreement. PSNH has agreed to cap the recoverable costs at approximately \$18,000.
- 4. NHEC agrees that it is not seeking to recover costs associated with the agreed- upon payment hierarchy change set forth in Section II, A. or the agreed- upon provision concerning budget billing and payment plan information disclosed through a monthly electronic communication other than through EDI transactions set forth in Section II, C, 2.

- 5. Liberty and Unitil attest that they have not identified the costs associated with efforts to develop and/or modify monthly electronic communications processes or to adopt EDI transactions to provide for disclosure of budget billing and payment plan status of CEPS customers. NHEC attests that it has not identified the cost associated with efforts to change EDI, if any. No cost recovery for any of these unidentified future costs incurred by Liberty, Unitil or NHEC is included in this Settlement Agreement, and the recovery of any such costs will be resolved pursuant to Section II, C, 3.
- 6. Recovery of any additional Utility charges relating to the matters discussed herein, including any charges associated with the cost of providing the Sync Report described in Section II, B to CEPS, would occur outside of this docket and in compliance with any applicable statute, Commission rule or other established procedures for Utility alteration of charges and fees imposed under its approved tariff.

E. Customer Communications

- 1. Upon receipt of monthly electronic communication or EDI transactions from the utility that identifies CEPS customers who have entered into an approved budget billing or payment plan, a CEPS using consolidated billing shall use best efforts to avoid initiation of communications regarding payment of unpaid or late balances with the identified CEPS customers, provided the calculation of the budget billing payment or the payment plan payment includes the balances owed to the Utility and to the CEPS.
- 2. CEPS shall have the right to make one (1) contact with each residential and small commercial consolidated billing customer targeted to seeking payment of unpaid or late balances prior to initiating termination efforts for such customer.
- 3. CEPS shall be permitted to contact their customers for any purpose other than seeking payment of unpaid or late balances.
- 4. Utilities receiving complaints about CEPS contact over unpaid bills from residential or small commercial customers enrolled in budget billing or a payment plan shall provide to the customer the phone number or web address for the Public Utilities Commission Consumer Affairs Division and information about the PUC complaint process.

F. Customer Consent to Disclosure to CEPS of Utility Account Status of Budget Billing or Payment Arrangement

1. In order to provide express authorization to Utilities to disclose customer budget billing and payment plan status to a customer's CEPS, the Utilities

shall include the following provisions in their Supplier Services Agreements with each CEPS choosing to utilize the Utilities consolidated billing services:

- customer Authorization: The CEPS represents and warrants that for each and every residential and small commercial customer account subject to consolidated billing the CEPS has obtained the customer's express consent, by any means permitted by applicable Commission rules, to authorize the Utility to disclose to CEPS on a periodic basis the status of the customer's account with the Utility as either subject to (1) a budget billing plan with the Utility; (2) a payment plan with the Utility; or (3) neither a budget billing plan nor a payment plan with the Utility. The CEPs further represents and warrants that it will provide documentation of any authorization required herein, at the request of the Utility.
 - i. For new residential and small commercial customer accounts, the CEPS shall modify its terms and conditions of service to require customer consent for the disclosure by the Utility of budget billing and payment plan information. The Settling Parties agree that requirements for CEPS terms and conditions of service would be better addressed in rules adopted by the Commission which apply to all CEPS conducting business in New Hampshire. The Settling Parties also agree to consider in good faith in the pending docket considering modifications to N.H. Code of Admin. Rules, Chapter Puc 2000 rules that would address how customers affirmatively consent to the terms and conditions of service, including the disclosure of payment information such as enrollment in budget billing plans and payment plans. Until such time as that rulemaking is complete, the Settling Parties agree that the CEPS's enrollment process shall include a mechanism by which its terms and conditions are disclosed to customers and customers provide some affirmative indication of their agreement to those terms and conditions.
 - ii. For existing residential and small commercial customer accounts where the terms and conditions provided to the customer at the time of enrollment included provisions whereby the customer agreed to allow the Utility to share payment information with the CEPS, customer consent will be deemed to have been provided.
 - iii. For existing residential and small commercial consolidated billing customer accounts where the terms and conditions of service provided to the customer at the time of enrollment did not include provisions whereby the customer agreed to allow

the Utility to share payment information with the CEPS, the CEPS shall send revised terms and conditions of service, updated to allow for the sharing of payment information between the utility and the CEPS, and request acceptance of the change from the customer. In the event the customer rejects the modified terms and conditions of service within the period of time specified by the CEPS, the CEPS would initiate procedures to either dual bill the customer, return any opt out customer to utility default energy service or, at the customer's election, transfer the customer to service by another CEPS at the earliest practicable date.

- iv. As a precondition for receiving monthly electronic communication or EDI transactions from the Utility as described in Section II, C, the CEPS shall notify the Utility either that (1) its existing terms and conditions are broad enough to encompass the above-described disclosure; or (2) it has completed the process of notifying customers of the revised terms and conditions of service, waiting for completion of the opt out process and transferring any opt out customers to alternative billing or serving arrangements.
- b. **Disclosure of Customer Account Status**: The Utility shall disclose to CEPS through either EDI transactions or a monthly electronic communications whether each customer of a CEPS is at that time (1) on a budget billing plan with the EDC, (2) on a payment plan with the Utility; or (3) on neither a budget billing nor a payment plan with the Utility.
- c. The Utilities and the CEPS warrant that the disclosed customer payment information shall not be used for any purpose other than that described herein.
- The Utilities shall set forth in detail in the applicable tariff the payment hierarchy in use by the Utility for CEPS who use the respective Utility's consolidated billing services as set forth in Section II of this Settlement Agreement.
- 3. The Utilities shall set forth in their Supplier Services Agreements with each CEPS choosing to utilize the respective Utility's consolidated billing services language which provides that any failure of the CEPS to satisfy the provisions set forth in Section II,F, 1, a. and II, F, 1, b. shall constitute a material breach of the Supplier Service Agreement, and that the CEPS will indemnify the Utility for any claims or damages arising from such breach, including reasonable attorneys' fees and costs incurred in association with responding to such breach.

III. ADDITIONAL AGREEMENTS/CONDITIONS.

- 1. This Settlement Agreement shall not be deemed in any respect to constitute an admission by any of the Settling Parties that any allegation or contention in this proceeding other than those expressly set forth herein is true or false, or that any particular agreement herein creates a precedent for future decisions.
- 2. Other than as expressly stated herein, the acceptance of this Settlement Agreement by the Commission shall not in any respect constitute a determination by the Commission as to the merits of any allegations or contentions.
- 3. This Settlement Agreement is expressly conditioned upon the Commission's approval of all provisions herein, without change or condition.
- 4. The discussions (including work papers, documents, etc. produced in connection therewith) that have produced this Settlement Agreement have been conducted on the explicit understanding that all offers and discussions relating thereto (i) are and shall remain privileged, (ii) shall be without prejudice to the position of any of the Settling Parties presenting such offer or participating in any such discussion and (iii) are not to be used in any manner in connection with these or other proceedings involving any of the parties to this Settlement Agreement or otherwise.
- 5. This Settlement Agreement is agreed to on the condition that, in the event the Commission does not approve of it in its entirety, it must be acceptable, in a Party's reasonable business judgment, to a Party whose rights or obligations under the Settlement Agreement are materially adversely affected by the Settlement Agreement as approved by the Commission. If the Settlement Agreement as approved by the Commission is unacceptable, the Settlement Agreement shall be deemed withdrawn and void and shall not constitute any part of the record in this or any future proceeding or be used for any other purpose.
- 6. This Settlement Agreement constitutes the entire agreement among the Settling Parties regarding the subject matter hereof. All previous agreements, discussion, communications, and correspondence regarding the subject matter hereof are superseded by the execution of this Settlement Agreement.
- 7. This Settlement Agreement may be executed in multiple counterparts, which together shall constitute one agreement.
- 8. The Commission shall have continuing jurisdiction to enforce the terms of this Settlement Agreement.

The Settling Parties affirm that the proposed Settlement Agreement is just, reasonable and should be approved.

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IV. <u>CONCLUSION</u>

The Settling Parties affirm that the proposed Settlement Agreement is just, reasonable and should be approved.

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Small business and residential billing system - Excel Columns A through AJ column headers

BA ID SAA ID SAA CYCLE **EFTV DATE** SPLR PRVD CA NO BA CYCLE NAME CD LAST NAME FRST NM **BILG OPT** DISCO RATE SPLR ENTPR SPLYR_RATE PRICE_STRUCT CUSTOM PRICESAA STATUS ADDR STT NUM STTPFX DRTN CD ADDR STT NM STT_TYP_CD ADDR_UNIT_TYP_CD ADDR UNIT VAL TXT MNCPLT NM ST CD ZIP CD NUM ADDR STT NUM STTSFX DRTN CD STTPFX DRTN CD ADDR STT NM STT TYP CD STTSFX DRTN CD ADDR_UNIT_TYP_CD ADDR_UNIT_VAL_TXT MNCPLT_NM ST_CD ZIP_CD_NUM

Large customer billing system - Excel Columns A through Z column headers

SUPPLIER ID (DUNS #) UTILITY ACCOUNT # **UTILITY NAME KEY** SUPPLIER RATE SUPPLIER ASSIGNED ACCOUNT NUMBER **CHOICE EFFECTIVE DATE** PRICE POINT S/KWH ON-PEAK **\$/KWH OFF-PEAK NEXT READ DATE** UTILITY BILLING RATE ICAP TAG SUPPLIER BILLING OPTION SERVICE ADDRESS CITY/TOWN SERVICE ADDRESS STATE **CUSTOMER NAME** SERVICE ADDRESS STREET # SERVICE ADDRESS STREET NAME MAILING CUSTOMER NAME CONTINUED MAILING ADDRESS C/O NAME MAILING ADDRESS 2 MAILING ADDRESS 3 MAILING ADDRESS TOWN ADDRESS STATE MAILING ADDRESS ZIP BILL DEMAND NET KWH