

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 14-065**

**NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.**

**Memorandum of Understanding with Commission Staff**

**Order Accepting Memorandum of Understanding**

**ORDER NO. 25,645**

**April 1, 2014**

On March 6, 2014, Staff of the Public Utilities Commission filed a memorandum of understanding (MOU) between New Hampshire Electric Cooperative, Inc. (NHEC) and Staff. NHEC filed a Certificate of Deregulation with the Commission and has maintained that Certificate on file with the Commission since June 6, 2000. Because of NHEC's status as a deregulated electric cooperative, the Commission has limited jurisdiction over NHEC. RSA 362:2, II and RSA 374-F:4, XII. Although NHEC has participated in various proceedings before the Commission, Staff and NHEC agreed that both parties would benefit from the establishment of a MOU that sets forth the areas where NHEC has agreed to cooperate with the Commission on a voluntary basis. The MOU filed by Staff represents that agreement. The MOU and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, will be posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2014/14-065.html>.

In the MOU, NHEC agreed on a voluntary basis to participate in (1) the Commission's underground utility damage prevention (DigSafe) program and (2) after-action reviews following wide scale emergencies.

NHEC also agreed on a voluntary basis to provide annual informational filings including (1) an Operations Report, (2) a Cyber Security Review and related Audit Report, (3) an Emergency Restoration Plan for outage restoration, (4) a vegetation management report, (5) a pre-winter disconnection report and (6) a disconnection report. In addition, NHEC agreed to provide on-going informational notifications as follows: (1) Safety-Related Event Notifications, (2) Outage-Related Notifications, (3) Wide-Scale Emergency Communications, (4) Quarterly System Reliability Report, (5) NHEC's Construction Standards, and (6) Mapping of electrical facilities (upon request).

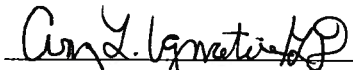
We agree with NHEC and Staff that it is appropriate and in the public interest for Staff and NHEC to have developed an MOU that clearly delineates those matters where NHEC agrees to participate on an ongoing basis. Based on the foregoing, we accept the MOU as an appropriate mechanism to minimize disagreements as to NHEC's participation in certain matters, as well as the parameters of the Commission's jurisdiction over NHEC in those matters.


The MOU is attached to this Order (Attachment A) with the understanding that the MOU, and not the summary of the MOU provided in this Order, represents the extent of NHEC's voluntary participation in matters that are the subject of the MOU and within the Commission's authority.


**Based upon the foregoing, it is hereby**

**ORDERED**, that the Memorandum of Understanding between Commission Staff and the New Hampshire Electric Cooperative, Inc. is accepted.

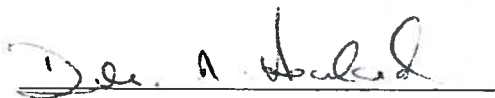
By order of the Public Utilities Commission of New Hampshire this first day of April,  
2014.

  
Amy L. Ignatius  
Chairman

  
Robert R. Scott  
Commissioner

  
Martin P. Honigberg  
Commissioner

Attested by:

  
Debra A. Howland  
Executive Director

## **MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding (the "Agreement") is entered into by New Hampshire Electric Cooperative, Inc. ("NHEC") and the Staff of the New Hampshire Public Utilities Commission ("Staff") (collectively referred to as the "Parties"), and shall become effective upon its approval by the New Hampshire Public Utilities Commission (the "Commission").

### **Statement of Context and Purpose**

NHEC is a Rural Electric Cooperative. On June 6, 2000, following an affirmative vote of its membership, pursuant to RSA 301:57, to become exempt from certain aspects of regulation by the Commission, NHEC filed a Certificate of Deregulation with the Commission. NHEC has continuously maintained a Certificate of Deregulation on file with the Commission since June 6, 2000. Accordingly, pursuant to various provisions of the New Hampshire statutes relating to the Commission, Public Utilities and Rural Electric Cooperatives, the Commission's jurisdictional authority with regard to NHEC is limited.

NHEC's filing of a Certificate of Deregulation notwithstanding, NHEC has voluntarily participated in certain Commission programs and proceedings. Likewise, NHEC has voluntarily provided to the Commission various periodic reports and has responded to the Commission's occasional formal and informal information requests. This voluntary information sharing, however, has been largely *ad hoc*. The Parties agree that it is in their own and the public's interest that the scope of both NHEC's commitments to provide certain information and its commitment to participate in certain programs and proceedings be more clearly defined and documented.

New Hampshire's statutory framework regarding utility regulation is extensive and those provisions impacting the regulatory status of deregulated Rural Electric Cooperatives are complex. The Parties recognize that there have been instances of disagreement or uncertainty concerning the interpretation or implementation of the statutory provisions unique to NHEC's deregulated status. The Parties agree that it is in their own and the public's interest that the potential for disagreements and uncertainties concerning the parameters of both the Commission's jurisdiction and NHEC's obligations resulting from NHEC's deregulated status be minimized through mutual cooperation and communication relating to those issues.

## Agreements

Under the circumstances and for the reasons set forth above, the Parties mutually agree to the following:

**1. Participation in Underground Utility Damage Prevention Program.** During the duration of this Agreement, NHEC agrees to *voluntarily*<sup>1</sup> participate in and be *voluntarily* subject to the requirements of the New Hampshire Underground Utility Damage Prevention Program in the same manner and to same extent as if NHEC were a Public Utility as defined in RSA 362:2. As part of the Legislative Initiative provisions of paragraph 8 of this Agreement, the Parties agree to jointly use their best efforts to cause the amendment of RSA 362:2 so as to make the provisions of RSA 374: 48-56 concerning New Hampshire's Underground Utility Damage Prevention System applicable to deregulated Rural Electric Cooperatives.

**2. Participation in After Action Reviews.** During the duration of this Agreement, NHEC agrees to continue to *voluntarily* participate in after action reviews and provide *informational*<sup>2</sup> responses to reasonable discovery requests relating to wide-scale emergencies, as it has done previously. NHEC agrees to *voluntarily* file *informational* self-assessments with the Commission within 60 days following any wide-scale emergency event that implicates NHEC's utility services.

**3. Annual Informational Filings.** Annually, each year during the duration of this Agreement, NHEC agrees to *voluntarily* file with the Commission, or provided to the designated Staff representative, the *informational* reports described below.

**A. Operations Report.** An *informational* report including the following:

- i. Number of members by class and by Co-op Power vs. Competitive Supplier
- ii. Number of meters by class
- iii. kWh sales, total and by class and by Co-op Power vs. Competitive Supplier
- iv. Revenue from electric sales, total and by class
- v. Miles of distribution lines, by voltage
- vi. Peak load monthly and by time-of-day

**B. Cyber Security Review and SOC Audit Report.** NHEC will develop, and beginning in 2015, make available for an annual confidential review, an *informational* document describing NHEC's information security planning processes, policies and procedures which NHEC utilizes to protect its critical cyber security assets. Beginning in 2016 (due to

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<sup>1</sup> Throughout this Agreement, the italicized terms "*voluntary*" and "*voluntarily*" shall mean that the described action or commitment arises solely from this Agreement and is not otherwise required by law, rule or order, and is not undertaken pursuant to any *Consent to Jurisdiction* under RSA 301:60.

<sup>2</sup> Throughout this Agreement, the italicized term "*informational*" shall mean that NHEC's provision of the described report, plan, document or data is *voluntary* and shall not give rise to any obligation to provide additional information, not detailed in this Agreement.

recent SOC changes adopted by the AICPA the next SOC audit, covering the calendar year 2015, will be conducted in 2016), NHEC will make available for an annual confidential review an *informational* report from an independent auditor, comporting to the American Institute of Certified Public Accounts (AICPA) standards for *Reports on Controls at a Service Organization Over Security, Availability, Processing Integrity, Confidentiality and Privacy*, concerning the results of NHEC's most recent annual security audit.

**C. Emergency Restoration Plan for Outage Restoration.** An *informational* copy of NHEC's then-current Emergency Restoration Plan for Outage Restoration.

**D. Vegetation Management Report.** An *informational* report including the following:

- i. An *informational* copy of NHEC's then-current *Vegetation Management Plan*
- ii. Annual total miles of line trimmed or treated
- iii. Annual total vegetation management expenditures
- iv. A map or other description of areas trimmed
- v. A copy of NHEC's vegetation management specifications

**E. Pre-Winter Disconnection Report.** An *informational* report substantially consistent with the requirements of Puc 1204.06(g).

**F. Disconnection Report.** An *informational* report detailing the number of residential accounts disconnected for non-payment, shown by month. NHEC agrees to provide this report sooner than on an annual basis if reasonably requested by Commission Staff.

**4. On-going Informational Notifications.** In addition to the annual reports detailed above, NHEC agrees to *voluntarily* file with the Commission, or provide to the designated Staff representative, the *informational* reports or notifications described below.

**A. Safety-Related Event Notifications.** NHEC agrees to *voluntarily* notify, by telephone or electronic communications, the designated Staff representative as soon as reasonably practical after becoming aware of an accident or event involving NHEC facilities or equipment which involves contact with an energized electrical circuit and/or results in:

- i. Serious injury or death
- ii. Damage to or caused by aircraft, trains or commercial boats
- iii. The closure of a state highway

Notifications provided pursuant to this paragraph shall include, to the extent available, the following information:

- (a) The name of the person making the report and the telephone number at which they can be called back;
- (b) Brief description of the accident or event and location;

- (c) A description of any known fatalities, personal injuries and damage;
- (d) Any other known information relevant to the cause of the accident or event and the extent of the damage;
- (e) The time at which the accident or event occurred, and how and when NHEC was first notified of the accident or event.

**B. Outage-Related Notifications.** NHEC agrees to *voluntarily* notify, by telephone or electronic communications, the designated Staff representative as soon as reasonably practical of Significant Outages. "Significant Outage" shall mean, an outage during which NHEC's  $T_{MED}$  (Threshold Major Event Value) is realized.

**C. Wide-Scale Emergency Communications.** During Wide-Scale Emergencies NHEC agrees to continue to provide *voluntary* outage information via NHEC's OMS as available on NHEC website and crew report information at the Commission's request, as it has previously. "Wide-scale emergency" means an event which is already, or is expected to result in a sustained interruption of electric service to 10% or more of the utility's customers or 40,000 of the utility's customers, whichever is less, and restoration of service to any of these customers takes more than 24 hours, or a federal, state or local government declares an official state of emergency in the utility's service territory and the emergency involves an interruption of electric service.

**5. Quarterly System Reliability Report.** NHEC agrees to *voluntarily* file with the Commission, or provide to the designated Staff representative, an *informational* report including the following:

- i. NHEC's System Average Interruption Frequency Index (SAIFI)
- ii. NHEC System Average Interruption Duration Index (SAIDI)
- iii. NHEC's Customer Average Interruption Duration Index (CAIDI)
- iv. NHEC's Average Number of Members Interrupted Per Interruption Index (CIII)

**6. Construction Standards.** NHEC agrees to *voluntarily* provide to the designated Staff representative, an *informational* copy of NHEC's most recent Construction Standards documentation.

**7. Mapping Information.** The Parties agree to exchange mapping information of electrical facilities upon reasonable request.

**8. Legislative Initiative.** The Parties agree to jointly use their best efforts to cause the amendment of RSA 362:2 so as to both make the provisions of RSA 374: 48-56 concerning New Hampshire's Underground Utility Damage Prevention System applicable to deregulated Rural Electric Cooperatives and make the provisions of RSA 378:38-39 concerning the filing and Commission review of Least Cost Plans inapplicable to deregulated Rural Electric Cooperatives.

**9. General Cooperation.** The Parties agree to cooperate with one another and to be mutually responsive to the reasonable communications, inquiries and requests of one another.

### **General Provisions**

**10. Term.** This Agreement shall become effective only upon the Commission's acceptance of all of its provisions without change or condition. If such acceptance is not granted, the Agreement shall be deemed to be null and void and without effect. Once approved, this Agreement shall remain in effect until such time, if any, that NHEC files with the Commission a Certificate of Regulation, or until terminated in accordance with Paragraph 15 of the Agreement.

**11. Amendment.** This Agreement may only be amended by mutual written agreement of the Parties, and such amendment shall become effective upon adoption and approval by the Commission.

**12. Nature of Agreement.** Neither this Agreement, nor any undertakings by NHEC pursuant to this Agreement, shall be considered Consent to Jurisdiction under RSA 301:60.

**13. PUC Assessment.** Neither this Agreement, nor any undertakings by NHEC pursuant to this Agreement, shall cause changes to manner in which NHEC's assessment pursuant to RSA 363-A is calculated.

**14. Non-Waiver.** Any express or implied waiver or forbearance at any time by either of the Parties relating to any of its rights with respect to the other Party or with respect to any matter arising in connection with this Agreement, including actions or forbearance undertaken pursuant to Paragraph 9 of this Agreement, shall not alter or amend the Parties' respective rights and obligations under this Agreement and shall not be considered a waiver with respect to any other prior or subsequent exercise of rights concerning the implementation, enforcement or termination of the Agreement.

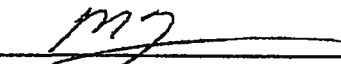
**15. Termination.** Either of the Parties or the Commission (the "Terminating Party") may, at its sole discretion, terminate this Agreement by providing the other with written notice of the intent to terminate the Agreement, effective as of a date certain not less than thirty (30) days following the delivery of the termination notice. The termination notice shall include a substantive description of the reasons giving rise to the notice.

In the event that either of the Parties or the Commission issues a termination notice, the Parties agree to negotiate in good faith to address the reasons for termination stated therein and, if possible, achieve a mutually acceptable renegotiation or amendment of this Agreement. Regardless of the Parties' obligations to articulate in writing, and negotiate in good faith regarding the reasons for termination, this Agreement will terminate as of the date specified in the termination notice, or any mutually agreed to extension thereof, unless prior to that date the Parties execute a mutually acceptable written agreement to the contrary.



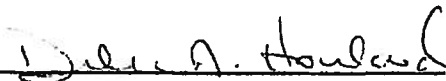
The Parties have caused this Agreement to be duly executed in their respective names by their agents, each being fully authorized to do so, on behalf of their principal.

New Hampshire Electric Cooperative, Inc.

By:   
Mark W. Dean, Esq.

Date: 3/6/14

Staff of the New Hampshire Public Utilities Commission

By:   
Debra A. Howland, Executive Director

Date: 3.6.14

**SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED**

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Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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Docket #: 14-065-1 Printed: April 01, 2014

**FILING INSTRUCTIONS:**

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with: DEBRA A HOWLAND  
EXEC DIRECTOR  
NHPUC  
21 S. FRUIT ST, SUITE 10  
CONCORD NH 03301-2429
- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.
- c) Serve a written copy on each person on the service list not able to receive electronic mail.