

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 19-197**

**Electric and Natural Gas Utilities**

**Development of a Statewide, Multi-Use Online Energy Data Platform**

**Order Approving Settlement and Establishing a Process  
for Developing a Statewide Data Platform**

**O R D E R N O. 26,589**

**March 2, 2022**

In this order, the Commission approves the design and framework proposed by the parties in this matter for the development and implementation of a state-wide Multi-Use Energy Data Platform. The Commission supports making utility data available while implementing strong privacy and security standards to protect the data of utilities and their customers. Impaired access to customer usage data is a potential barrier to competitive market entry. The Commission will continue to work with the utilities and their customers until this data platform is readily available.

The data platform is designed to enable customers, as well as third-party energy providers, to access energy consumption data from all regulated electric and natural gas utilities through one secure portal using protocols identified by the parties to this proceeding, the “Green Button Connect” protocols. Customers must opt-in to have their data accessed through the portal and customer data will be protected from unauthorized users.

Before moving forward with requests for proposals to develop the data platform, the Commission requires additional detail on software design, customer preferences, and available technology. The Commission also requires that the stakeholders initiate the development of a cost-benefit methodology before moving forward with requests for

proposals. The development of the cost-benefit methodology will inform required cost-benefit analysis after the result of the requests for proposals is finalized. Such a cost-benefit analysis should inform not only whether the development of the state-wide data platform is reasonable and in the public interest, but should also enable a study to provide a prospective look at the rate-design that ensures costs are appropriately recovered from the beneficiaries of the state-wide data platform.<sup>1</sup>

#### **I. BACKGROUND AND PROCEDURAL HISTORY**

On December 13, 2019, the Commission issued an order of notice opening this docket as required by SB 284-FN (2019), codified as RSA 378:50-:54. The new subdivision titled, “Multi-Use Energy Data Platform,” provides for the establishment of a statewide online energy data platform, which would allow utilities, their customers, and third-parties, to access and share data regarding customer energy usage. This docket was established to determine how the energy data platform will be developed, implemented, and maintained, and whether the costs of doing so are reasonable and in the public interest.

The electric and natural gas utilities were designated as parties to the proceeding (NH Utilities). The Office of Consumer Advocate (OCA) indicated its intent to participate. The following parties entered petitions to intervene; Mission: data Coalition, Freedom Logistics, LLC, Kat McGhee, UtilityAPI, Inc., Town of Hanover, Patricia Martin, Clean Energy New Hampshire, City of Lebanon, Community Choice Partners, Inc., the Direct Energy Companies, Packetized Energy Technologies, Inc.,

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<sup>1</sup> To enable a timely Commission approval of forthcoming implementation of the state-wide data platform, following the completion of the RFP process, it is important that the requested information and other important milestones follow a timeline, which is shown for illustrative purposes in Section D of this order.

and Greentel Group. The Commission granted all requests for intervention on April 17, 2020.

The parties filed scoping comments on March 11, 2020, use cases in early April, and additional comments on the use cases on April 15, and 23, 2020. Parties filed testimony on August 17, 2020, with certain intervenors filing jointly as consolidated groups. Parties filed rebuttal testimony on October 23, 2020. On April 28, 2021, the parties filed a joint settlement agreement (Settlement). On May 5, 2021, the Commission held a hearing on the Settlement.

## **II. SETTLEMENT**

Although the parties had differing positions as expressed in their comments, testimony and rebuttal testimony, they eventually agreed to the terms of the Settlement. Below are certain key elements contained in the Settlement regarding the development and implementation of the state-wide data platform.

### **A. Platform Design**

The Settlement provides that a virtual Multi-Use Energy Data Platform (Platform) design is most feasible and cost-effective to construct and is also adaptable to future functionalities. The Settlement provides that the NH Utilities shall develop a Platform consisting of:

“(1) a single, unified internet-hosted resource web portal and central Application Programming Interface (“API”) that allows customers and other non-utility third-parties to register to access and share combined utility data and participate in sharing additional data directly via APIs, through which market participants can register for access to data (the “Platform Hub”);

(2) APIs developed individually by or for each NH Utility that shall furnish data to the Platform Hub (“Utility-Specific APIs”); and

(3) a Platform “back end” at each NH Utility that shall operate in parallel with the other two elements, so that Utility-Specific APIs and the Platform Hub share standardized data in accordance with Connect My Data supported standards adopted by the Green Button Alliance and aggregated data.

In addition to the three specific elements, the Platform shall also include user interface, user support, ongoing maintenance, and security reviews of Platform users. Each NH Utility shall use a common model to standardize data to have the same meaning, format and relationships, referred to herein as the “Logical Data Model”.

Each NH Utility shall, at a minimum, provide the data types specified in the Logical Data Model via the Platform Hub. No data supplied to the Platform Hub by a Utility-Specific API shall be stored by the Platform Hub except as may be technically necessary for brief periods to allow the Platform Hub to function effectively.

Each NH Utility shall develop a plan for program administration that includes, but is not limited to:

- (1) NH Utilities’ customer consent processes and records maintenance.
- (2) Platform user authorization and registration processes, including security authorization and monitoring;
- (3) tracking and auditing; and
- (4) preferences (i.e., which accounts to share and other future options).”

Settlement at 5-6.

Each utility plan for program administration shall be subject to the approval of the Platform Governance Council. Each utility’s customer support functions shall be coordinated to support the customers as well as the authorized third-party users of the data platform.

All data provided by the Platform Hub shall conform to the Logical Data Model and any data provided that is included shall be in a current Green Button Connect My Data standard, unless otherwise agreed by the Platform Governance Council and approved by the Commission. As additional data elements are identified for future inclusion in the Platform, that are not part of the Green Button Connect My Data Standard, the NH Utilities or Governance Council should seek to obtain certification from the Green Button Alliance before the Council considers other standard formats for data sharing. If available, at least 24 months of historical customer data shall be

provided by the NH Utilities, in a standardized format that is as accurate and contemporaneous to other data available in the NH Utility systems.

Consistent with RSA 378:50-51, customers of a NH Utility must affirmatively opt-in to share their individual energy-usage data via the Platform or as otherwise ordered by the Commission or required by law. Customer authorizations shall extend for a maximum of up to five years with an annual notice providing an option to revoke such authorization.

### **B. Platform Administration and Operation**

The Platform Hub shall be developed, operated and hosted by a party or parties under contract to the NH Utilities. Regardless of the arrangements for operation and administration of the Platform, the NH Utilities shall have a role in administering and enforcing the security and privacy standards of the Platform, including Platform user eligibility and security standards, and customer consent. The entity or entities responsible for developing and hosting the Platform Hub shall be selected through a request for proposal (RFP) process.

### **C. Governance**

The NH Utilities shall establish a Platform Governance Council (“Council”) for oversight of the Platform. The Council shall consist of the following 12 members:

- (a) three utility representatives, one chosen by each investor-owned utility that shares data via the Platform Hub, provided that affiliated electric and natural gas utilities shall be entitled to one member representing both affiliates.
- (b) three representatives of third-party users of Platform data;
- (c) one representative of New Hampshire municipalities either participating in or with an aggregation plan developed for community power aggregation pursuant to RSA 53-E;
- (d) one representative of the OCA, chosen by the Consumer Advocate;
- (e) one representative of large commercial/industrial customers;

- (f) one representative of small commercial/industrial customers;
- (g) one representative of the academic community with an interest in research germane to the purposes of the Platform; and
- (h) one representative from Staff.<sup>2</sup>

Settlement at 8-9.

The Council is responsible for supervising the administration and operation of the Data Platform including changes needed, standard processes, performance metrics and resolution of disputes among various Platform users. The Council shall make decisions by consensus and a member may request that the Commission resolve disputes when agreement cannot be reached through the consensus process.

The Council shall provide an analysis to the Commission consisting of a narrative statement and evaluation that provides support for any issue or recommendation that has cost recovery implications. Any issue or determination that exceeds the costs approved by the Commission that would necessitate further cost recovery from NH Utility customers shall be submitted for Commission review and approval. Likewise, any determination implicating inclusion of grid operations data or planning data shall be subject to and contingent upon Commission review and approval.

### **C. Platform Security and Privacy Standards**

The data platform shall be implemented to protect customers and their data adequately and to comply with applicable New Hampshire law, including but not limited to RSA 378:50-54 and RSA 363:37-38. The NH Utilities shall be prohibited from unilaterally imposing, without an order from the Commission or unless required

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<sup>2</sup> With the establishment of the Public Utilities Commission and the Department of Energy (DOE) effective July 1, 2021, this reference should be to the DOE staff.

by law, any term, condition, restriction, requirement, cost or financial security upon Platform users that is not explicitly specified in the Settlement.

NH Utilities shall conduct additional reviews of the privacy and security requirements from time to time and propose changes to the Council for approval. Once such changes are approved, the NH Utilities and Platform Hub operator shall implement any necessary and appropriate modifications of the privacy and security requirements.

**D. Cost Reasonableness**

This docket should remain open for a review and determination by the Commission concerning whether the Platform should be built or whether it should be deferred pursuant to RSA 378:51. To facilitate this determination, as soon as is practicable, but in any event no longer than one (1) year from the date of Commission approval of this Settlement, the Settling Parties commit to the following actions:

“(a) the NH Utilities shall utilize an RFP process which the Council shall review to select one or more contractors to develop and operate the Platform Hub;

(b) the Council shall review on a confidential basis all responses to the RFP;

(c) the Council shall make a recommendation to select one or more contractors to develop and operate the Platform Hub;

(d) the NH Utilities shall utilize an RFP process to hire a consultant to review for the Council the Utility proposals for Back-End Integration and construction of the Utility-Specific APIs for consideration as the Settling Parties balance the needs of the Platform and the NH Utility Back-End Integration; and

(e) the NH Utilities and the Council shall develop for submission to the Commission an estimate of the cost of the Platform development, deployment, and operation, including both Back-End Integration and the construction of the Utility-Specific APIs and Platform Hub, and an estimated range of annual operation costs to be incurred by Platform Hub operation.”

Settlement at 13-14.

### **E. Cost Recovery**

RSA 378:54 provides that the utilities may “[i]mpose reasonable charges to third parties for access to data via the multi-use, online energy data platform; and [o]therwise recover costs from customers in a timely manner as approved by the commission.” Once the Platform is operational the Council shall consider a fee structure for Platform users to defray Platform construction and operational costs to the NH Utility customers. Initial design and RFP development along with all consultant, operating and capital costs shall be recoverable from NH Utility customers only to the extent that such costs are reasonable, prudently incurred and in the public interest, and are not otherwise recovered from Platform users or other funding sources. Once a vendor has been selected and Platform cost estimates are known, the Council shall file those estimates for the Commission’s determination of:

- (1) whether those costs appear reasonable pursuant to RSA 378:51, III;
- (2) the mechanism through which utilities may recover platform costs from customers in a timely manner pursuant to RSA 378:54, II; and
- (3) the venue through which the Commission shall determine whether the Platform was prudently deployed.

Settlement at 15.

Commission review of prudently incurred deployment and recovery of costs will occur in one docket for the combined NH Utilities. Costs associated with the Platform Hub and other shared costs between the NH Utilities shall be allocated by the preceding year’s total New Hampshire retail revenue.

### **III. COMMISSION ANALYSIS**

#### **A. Legal Standard**

Unless precluded by law, disposition may be made of any contested case at any time prior to the entry of a final decision or order. RSA 541-A:31, V(a). Pursuant to



N.H. Admin. R., Puc 203.20(b), the Commission shall approve the disposition of any contested case by stipulation if it determines that the result is just and reasonable and serves the public interest. The Commission encourages parties to settle disagreements through negotiation and compromise because it is an opportunity for creative problem solving, allows parties to reach a result in line with their expectations, and is often a better alternative to litigation. *Hampstead Area Water Company, Inc.*, Order No. 26,131 at 3 (May 3, 2018). Nonetheless, the Commission cannot approve a settlement, even when all parties agree, without independently determining that the result comports with applicable standards. *Id.*

RSA 378:51, II requires that our review of the Settlement be conducted in an adjudicative docket. Further, it requires us to consider whether the Settlement addresses the following requirements for the design and operation of the energy Platform:

- (a) Governance, development, implementation, change management, and versioning of the statewide, multi-use, online energy data platform.
- (b) Standards for data accuracy, retention, availability, privacy, and security, including the integrity and uniformity of the logical data model.
- (c) Financial security standards or other mechanisms to assure compliance with privacy standards by third parties.

RSA 378:51, II.

In reviewing the Settlement, we will also consider whether the terms of the Settlement satisfy the following statutory Platform requirements.

- I. Design and operate the energy data platform to provide opportunities for utilities, their customers, and third parties to access the online energy data platform and to participate in data sharing.
- II. Require, as a condition of accessing the online energy data platform, that a third party complete a qualification and registration process to ensure that any customer data downloaded from the platform remains in a safe, secure environment according to data privacy standards established by the commission.

III. Administer the online energy data platform in a manner consistent with RSA 363:38. RSA 378:52

The platform established under RSA 378:51 shall be certified by the Green Button Alliance and support the Energy Service Provider Interface of the North American Energy Standards Board and the Green Button "Connect My Data" initiative of the Green Button Alliance.

RSA 378:53

In addition to setting out the requirements for the data platform and the framework for the Commission's review of the design of the data platform, the statute requires the Commission to consider the costs of developing the data platform and the impacts of those costs on utility ratepayers.

The department of energy shall defer the implementation of the statewide, multi-use, online energy data platform pursuant to paragraph I if the commission determines that the cost of such platform to be recovered from customers is unreasonable and not in the public interest.

RSA 378:51, III.

At a later stage when the costs of the data platform are known, the Commission is required to approve the mechanisms for the utilities to recover the costs from utility customers and other users of the data platform.

The utilities may:

- I. Impose reasonable charges to third parties for access to data via the multi-use, online energy data platform; and
- II. Otherwise recover costs from customers in a timely manner as approved by the commission.

RSA 378:54 Cost Recovery.

## **B. Settlement**

We commend the parties to this docket for their collaboration in reaching a framework for moving forward to design, and to assign costs, to the development of a State-wide Multi-Use Energy Data Platform. We note that where the Settlement refers to Staff, those provisions should be interpreted to refer to Department of Energy Staff.

At this point, we are considering a Settlement which covers a number of preliminary matters involving the platform design, and the decision-making process for further refining the platform requirements to the point at which an RFP can be issued for the software development. We are not at a point yet where the financial costs and benefits of the software development is fully developed for a Commission determination pursuant to RSA 378:51, III. At this preliminary juncture, we find that the Settlement contains terms which satisfy the requirement of RSA 378:52, and :53. We will also review the Settlement according to the standard of Commission review provided in RSA 378:51, II. We note that consistent with RSA 378:51, II, the Settlement was developed through an adjudicative process.

### **1. Governance, Development, Implementation**

The proposed Platform Governance Council addresses the need for governance over the development and implementation process by assigning all major decisions to the Council for resolution on a consensus basis. Nonetheless, the Settlement provides for the Commission to resolve disputes among members of the Council when necessary. By including representatives of various potential stakeholders on the Council, the parties have ensured that the Platform will be enabled to meet the needs of the represented stakeholders. We are concerned that non-participating customers may not be adequately represented on the Council. Nonetheless, we find that the Platform Governance Council structure allows for meaningful stakeholder input, and is consistent with statutory requirements. *See* RSA 378:51, II(a). When the Commission reviews the reasonableness of the projected costs of the data platform at a later stage in the development process, the Commission will need to consider impacts to both participating and non-participating customers.

The Data Platform as outlined in the Settlement is designed to allow customers, and authorized third-parties, access to the same customer usage data in one virtual platform across all five utilities. This design meets one of the primary statutory goals. See RSA 378:52, I. The third-party registration process and the requirement for a customer to opt-in to the use of the Platform are consistent with the goal of protecting customer data. See RSA 378:52, II. Further the recommended platform design structure with the public facing data platform providing data retrieval, as opposed to data storage, appears to limit potential improper access to customer data, and to be prudent, efficient, and consistent with statutory goals. RSA 378:52, II(a).

The Settling Parties propose to develop and implement the data platform software through an RFP for development and administration of the Platform. We agree that such technical services should be priced based upon a competitive bid process, however, we believe that additional Commission involvement prior to the issuance of an RFP is warranted to ensure that the bids result in a software development process that is successful and provides the lowest cost for implementation. See our discussion of project leadership and management and Commission oversight below. We find that the Settlement when modified by the processes described in Section D, below, adequately addresses software development issues as required by RSA 378:51, II(a).

The Settling Parties propose to issue an RFP for a consultant to assist in developing an RFP for the utility specific back-end and the utility-specific API. We believe that such expert technical assistance will be helpful in determining what design options will be least cost and most likely to result in a successful development process. For these reasons, and with the addition of the technical project leadership and Commission oversight discussed in Section D below, we find that the Settlement

conforms to the governance, development, and implementation requirements of RSA 378:51, II.

## **2. Data Accuracy, Retention, Availability, Privacy, And Security**

The recommended platform design structure with the public facing data platform providing data retrieval, as opposed to data storage, appears to support data privacy and security. The cybersecurity of the platform data is a critical element as recognized in RSA 378:51, II. The proposed platform design provides for compliance with customer privacy protections, RSA 363:38, and for regular utility review of those protections. Further, the goal of providing 24 months of usage data of quality and accuracy commensurate with the utility data, is consistent with statutory goals. We will expect any platform development proposal to give priority and detail to all cybersecurity elements. Thus, we find the Data Platform design described in the Settlement is a good preliminary framework and is consistent with the data accuracy, retention, availability, privacy, and security requirements of RSA 378:51, II(b). We will expect the parties to describe in more detail current privacy standards in place at the utility API's and the commensurate standards to be applied to third-parties seeking access to customer data.

## **3. Mechanisms to Assure Compliance with Privacy Standards**

Appendix C to the Settlement gives a detailed description of the registration process for third-party Platform users. Depending upon the level of data requested, the third-party is required to meet varying levels of data security. To assess data security, a third-party must complete a detailed questionnaire concerning the security level and adequacy of its practices and its capacity to protect customer data. Either the utility, or an authorized centralized cyber authority, shall assess Platform users' compliance with privacy standards before allowing them to register to access varying levels of data

through the Platform. The registration process involves an initial security assessment, and then an on-going annual attestation regarding cybersecurity practices. Users' access to the Platform will be terminated for any failure to meet cybersecurity standards. We find, as a preliminary matter, the registration practices described in Appendix C are consistent with the requirements to assure compliance with privacy standards by third parties of RSA 378:51, II(c). We will require additional detail on the registration process, to ensure compliance with current best practices in the utility industry, as the parties prepare the RFP for Platform development.

### **C. Needed Project Leadership and Management**

A key to successful and economically efficient development of the software needed to support the proposed Data Platform is having a software development project manager with the technical expertise to lead a complex project such as the one proposed in RSA 378:50-54. As an intervenor and sponsor of SB 284-FN (2019), Representative McGhee stated in her petition to intervene:

“In that process, my background as a Technology Program Manager helped with communication and understanding of the work that had already been completed on the road toward requirements gathering and the development of a logical data-model standard for the statewide, online energy platform. This docket differs from other PUC dockets in that it requires not only a state and utility collaboration, but also the integration and management of a software project for which the state must supply some measure of technical expertise and oversight to achieve its goals.

The logical data-model standard, which could also be referred to as the New Hampshire Energy Data Standard, was conceived and designed by state resources to facilitate the collaboration with the state's utilities. The problem of state ownership has been and remains a potential point of failure for this project because there is no natural state agency or department home for the technical project management to live within the State of New Hampshire's bureaucracy. Without specific and dedicated ownership for the technical aspects of the project on the state side, it is highly unlikely the project will meet its intended objectives in a timely and cost-effective manner.”  
Petition to Intervene, Kat McGhee at 2-3.

We will expect the parties to propose ways to provide the necessary technical leadership for this software development project as they refine the software design and

move toward the RFP process. Without adequate technical leadership the project costs will be hard to manage efficiently and effectively.

#### **D. Commission Oversight**

In order to fulfill our obligations to review and approve any costs associated with the data platform, RSA 378:51, III, and to minimize those costs pursuant to RSA 363:17-a, we will require some additional Commission oversight of the development process. In order to obtain the lowest possible cost for developing the data platform, as well as for the utility back-end integration and the utility API, we direct the parties to develop a more detailed description of the data and functions needed for platform operation. The customer interface should be illustrated in a way that describes the customer or third-party experience with the API. An actual demonstration of the user experience with the Data Platform API would be most helpful.

Before embarking on additional design work on the Platform, each of the electric and gas utilities are directed to conduct customer surveys of a statistically valid representative sample of their New Hampshire customer classes to determine for each of the customer classes, the current level of customer interest and the likelihood of customers opting-in to the use of the data platform. The Commission encourages the utilities to use a professional survey management company to conduct the survey and to coordinate the survey effort across utilities to achieve consistency of approach and survey results. We also direct that the survey data collected through the survey be filed with the Commission in this docket.

Further, before proposing the form of an RFP for the Platform, the parties should survey existing software, and software under development in other jurisdictions, to determine whether any costs can be saved through licensing existing technology. We request that the parties report on the status of any development or

implementation of a similar data platform in utility service territories outside New Hampshire. The parties should use an approach aimed at reducing risks and costs in the software development process. This is a complex and ambitious undertaking which has the potential to be very costly.

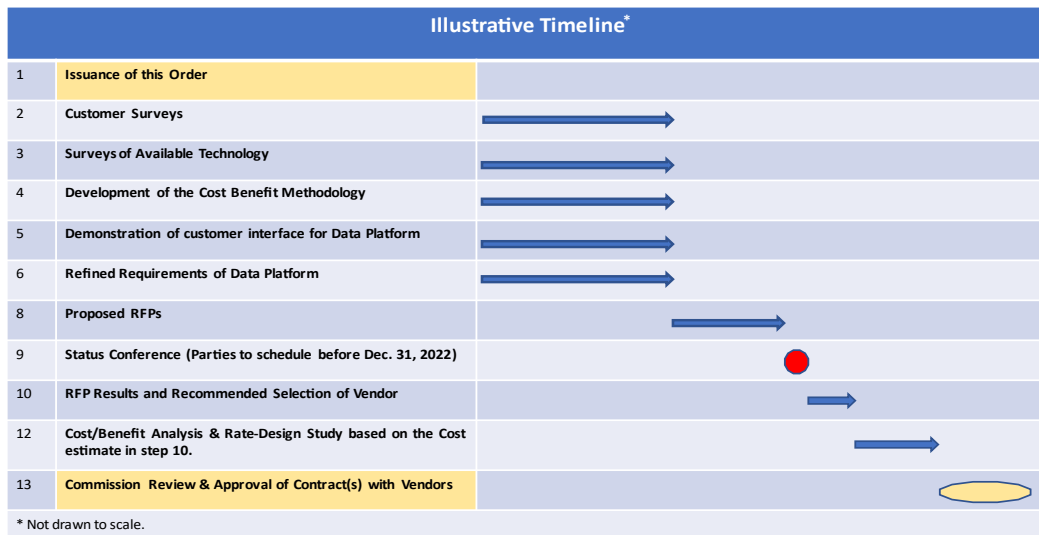
The Commission requires the parties to submit the RFP for the consultant to assist with the RFP process for the integration of the utility back-end and utility API to the Commission for review and approval prior to issuance. The Commission also requires the parties to submit the proposed RFP for the platform development to the Commission for review and approval prior to issuance. Should the parties determine that other RFPs are needed, those must also be submitted for Commission approval prior to issuance.

In considering future requests for cost recovery for the costs of the Data Platform design and implementation, we will be guided by the principles of cost causation and cost benefits. Recovery of costs from the different customer classes and users should be reasonably aligned with the benefits they receive. After the RFP for the Data Platform is issued, the Commission requires that the parties provide a forward-looking benefit-cost analysis and recommend a rate design that reasonably aligns cost recovery across users and ratepayers with the benefits they receive. The steps<sup>3</sup> required for Commission oversight, as shown on an illustrative timeline below, and are subject to update depending upon the results of the analysis required by the parties and the Commission.

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<sup>3</sup> Some of the steps may overlap differently, but they would still have to pivot around the Status Conference (Step 9) as illustrated for a timely Commission approval of the implementation of the state-wide Multi-Use Energy Data Platform.





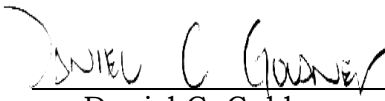
**Based upon the foregoing, it is hereby**

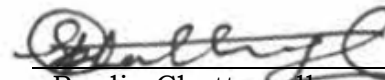
**ORDERED**, Settlement is **APPROVED** subject to the additional Commission oversight discussed herein; and it is

**FURTHER ORDERED**, that the parties should notify the Commission when they are ready to schedule a status conference to present customer survey data, technology surveys, customer interface demonstrations, methods for determining cost/benefit of data platform, and proposed RFPs, as discussed herein; and it is

**FURTHER ORDERED**, that no RFP shall issue for the Data Platform, for the consultant to assist with the NH Utility back-office integration and API, or for any other purpose without prior Commission approval.

By order of the Public Utilities Commission of New Hampshire this second day of March, 2022.

  
Daniel C. Goldner  
Chairman

  
Pradip Chattopadhyay  
Commissioner

  
Anne Ross  
Commissioner

## Service List - Docket Related

Docket# : 19-197

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