

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 21-078

**PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
d/b/a EVERSOURCE ENERGY**

**Petition for Approval of Electric Vehicle Make-Ready and
Demand Charge Alternative Proposals**

Order Approving Settlement Agreement, With Clarifications

O R D E R N O. 26,667

August 15, 2022

In this order, the Commission approves a settlement agreement regarding a proposal by Eversource to supplement \$4.6 million from the Volkswagen Settlement Trust (VW Settlement) with up to \$2.1 million in ratepayer funding to develop electric vehicle (EV) charging infrastructure across the State. We also approve a rate design for a Demand Charge Alternative (DCA) rate proposed by Eversource and presented within the settlement agreement.

I. PROCEDURAL HISTORY

On July 7, 2022, Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource, or the Company) filed a settlement agreement regarding the Company's proposals presented in this docket (Settlement Agreement). The Settlement Agreement was signed by the Company, the New Hampshire Department of Energy (DOE), the New Hampshire Department of Environmental Services (DES), the Office of the Consumer Advocate (OCA), Clean Energy New Hampshire (CENH), the Conservation Law Foundation (CLF), and ChargePoint, Inc. (ChargePoint) (collectively, the Settling Parties). *See* Hearing Exhibit 1. The Settlement Agreement presents a comprehensive summary of the legislative and Commission developments that drove exploration of EV development efforts in New Hampshire. Hearing Exhibit 1 at Bates

Pages 1–4. The immediate antecedent of the opening of this proceeding was the settlement agreement reached in the Company's last full distribution rate case, considered by the Commission in Docket No. DE 19-057 and approved in Order No. 26,433 (December 17, 2020). Section 16.4 of that settlement agreement required Eversource to collaborate with stakeholders to develop both an EV make-ready infrastructure program (Make-Ready Program) and a proposal for an alternative to demand charges for EV charging rates (i.e., the DCA) so that both could support the development of EV infrastructure and adoption. Hearing Exhibit 1 at Bates Page 4.

On April 15, 2021, Eversource filed its Make-Ready Program and DCA petition, presenting its proposals with the written testimony of Edward A. Davis, Brian J. Rice, and Kevin M. Boughan, together with supporting schedules. Hearing Exhibit 2. This material was later incorporated by Eversource and the other Settling Parties by reference in the July 7, 2022, Settlement Agreement. The OCA filed its letter of participation on April 26, 2021. The Commission issued an Order of Notice regarding this proceeding on August 10, 2021, scheduling a prehearing conference on August 25, 2021. The prehearing conference was held as scheduled. On September 9, 2021, the Commission issued Order No. 26,517, which denied Eversource's request to transfer consideration of the Make-Ready Program and DCA proposals to Docket No. DE 20-170. On September 10, 2021, the Commission issued a letter granting petitions for intervention from DES, CENH, CLF, ChargePoint, and the Town of Derry and approving a proposed, partly assented-to procedural schedule.

During the fall of 2021 and the winter of 2021–2022, the parties to this proceeding engaged in discovery and filed testimony regarding the Company's proposals. See Hearing Exhibits 4 through 8. On March 14, 2022, ReVision Energy, Inc. (ReVision Energy), filed a petition to intervene, which was subsequently granted by the Commission. On March 18, 2022, Eversource filed an assented-to motion to

amend the procedural schedule in this docket, to allow for more time for settlement negotiations among the parties, which was granted by the Commission in a procedural order on March 31, 2022.

On April 18, 2022, the Commission, on its own motion, rescheduled the hearing in this matter for July 14, 2022. During April 2022, a number of written comments regarding the Eversource Make-Ready Program and DCA Proposals were filed by ReVision Energy, the New Hampshire Automobile Dealers Association, Lovering Auto Group, Grappone Automotive Group, Banks Chevrolet, Inc., Hampton Ford-Hyundai, and Portsmouth Ford. These comments were generally supportive of Eversource's proposals, though the ReVision Energy comments presented technical critiques of the Company's DCA rate concept.

After the July 7, 2022, filing of the Settlement Agreement, the Commission issued a letter requesting that a representative of the DES be present at the July 14, 2022, hearing. The hearing was held as scheduled and representatives of the Settling Parties, including DES, provided supporting oral testimony or comments regarding the Settlement Agreement. The Commission, in order to accommodate its need for review of the Settlement Agreement including the Make-Ready Program and DCA proposals, issued a procedural order presenting three (3) Record Requests to the Company, and continuing the hearing in this matter for a second day, on August 9, 2022. Eversource provided responses to the Commission's record requests on July 15, 2022.

On July 28, 2022, and August 4, 2022, respectively, the City of Dover and ReVision Energy filed written comments in support of the Settlement Agreement and the proposals presented therein. On August 8, 2022, the Town of Derry filed written comments advocating that the Commission modify the Settlement Agreement to enable municipal fleet operators, whose chargers are not available to the general public, to qualify for the DCA (see discussion in Part III. below). On August 9, 2022, the final day

of hearing was held as scheduled, at which the Commission ordered written closing statements from the Settling Parties. These written closings were submitted by Eversource, DOE, ChargePoint, CLF, DES, the OCA, and CENH on August 10, 2022, providing arguments in support of the Settlement Agreement.

II. SETTLEMENT AGREEMENT

The Settlement Agreement presented, for the Commission's consideration, the DCA rate proposal (Settlement Agreement Part II., A.) and Make-Ready Program details (Settlement Agreement Part II., B.). Hearing Exhibit 1. The Settling Parties also requested that the Commission approve the Settlement Agreement by no later than August 15, 2022, to accommodate planned construction and rate roll-out schedules (Settlement Agreement Part II(C)).

The DCA design was presented in Attachment A to the Settlement Agreement. It is a "purely volumetric rate," with a basis in Eversource's general service Rate GV; "when any rate components to Rate GV are updated, the DCA will likewise be updated to reflect the changes in those rate components." Hearing Exhibit 1 at Bates Page 6. The Settling Parties agreed "...that there is sufficient analysis to support the conclusion that the [DCA] will likely collect sufficient revenue to avoid unjust cost-shifting among customer classes," thereby making the approval of the DCA just, reasonable, and in the public interest. *Id.* at Bates Pages 6–7.

The Settlement Agreement presented a series of qualifications for EV charging stations to be able to use the DCA, including the requirement that enrolled charging station customers must make their charging equipment available to the public without restriction. Hearing Exhibit 1 at Bates Page 7. The Settlement Agreement further specified that "[i]n three years from Commission approval of the [DCA], Eversource shall complete a cost-of-service-study...or similar type of analysis regarding the [DCA] customers and make the results of that study or analysis available to the Settling

Parties. If appropriate, based on the results of the [cost-of-service study] or similar type of analysis and taking into account customer needs and market conditions at that time, Eversource shall file with the Commission a summary of its study and analysis and Eversource's recommendation as to whether the [DCA] should be redesigned, discontinued, or continued in effect for an additional period of time." *Id.*

For the Make-Ready Program, the Settlement Agreement specified that the Commission would approve the Company's expenditure of up to \$2.1 million in EV charging station infrastructure, both "behind-the-meter," (that is, equipment owned by the charging station customer site host past the Company's meter), and "front-of-the-meter," (that is, equipment owned by Eversource up to and including the meter box). This spending, under the limitations set forth below, would be provided to successful bidders in the DES Request for Proposals (RFP) for disbursement of funds awarded to the State of New Hampshire and managed by DES as part of the Volkswagen Settlement Trust (also known as the VW Trust Mitigation Fund or VW Settlement). Hearing Exhibit 1 at Bates Page 9–10. DES clarified that approximately \$4.6 million would be made available from the VW Settlement for expenditure on New Hampshire EV infrastructure, representing a complete utilization of New Hampshire's funds available for EV charging investment from the VW Settlement. See Closing Statement of DES, August 10, 2022, at Page 3. Finally, the Settling Parties stipulated and agreed that "Eversource may recover capital costs of the [Make-Ready Program] through [the Company's] next distribution rate case, and that all prudently incurred operations and maintenance expense related to the program be recovered *either* through a reconciling rate mechanism *or* deferred through the creation of a regulatory asset for recovery in the Company's next distribution rate proceeding." Hearing Exhibit 1 at Bates Page 10, *emphasis added*.

Additional key detail regarding the operation of the Make-Ready Program proposal was provided by DES witness Ms. Rebecca Ohler at hearing, and in the DES's written closing statement of August 10, 2022. In particular, the DES clarified that under the terms of its VW Settlement RFP, prospective charging station customer site hosts seeking funding would be required to contribute at least 20 percent of the VW Settlement eligible costs. *See* Closing Statements of DES and Eversource, August 10, 2022.

In particular: Section 1.1 of the VW Settlement RFP states that "up to 80 percent of eligible costs may be reimbursed from the NH VW Trust for selected proposals"; non-eligible costs do not qualify for reimbursement under the VW Settlement RFP grant program. Section 2.4 of the RFP lists eligible and non-eligible project costs. *See* Eversource Record Request Response 1-1, July 19, 2022, Attachment 1, Page 11. The \$2.1 million in funding considered here as part of the Make-Ready Program proposal is anticipated to provide funding for up to two aspects of a project selected under the DES VW Settlement RFP. The funds could be used for front-of-the-meter infrastructure that is not eligible for VW Settlement funding, and that, if not covered by the Company's Make-Ready Program, would otherwise be the financial responsibility of the EV charging station site host. Eversource could also provide funding for some portion of behind-the-meter costs, despite some of those costs being eligible costs under the VW Settlement. In all instances, the EV charging station customer site host will remain responsible for providing at least 20 percent of the VW Settlement eligible costs, regardless of the source of funding. No Eversource contribution will ever count toward the required 20 percent match from the EV charging station site host. Ensuring the minimum 20 percent investment in VW Settlement eligible costs from the customer site host towards an awarded project will be achieved by collaboration with Eversource to share information on the value of any

Eversource investment in each project throughout the project timeline. DES's program will be implemented on a reimbursement basis, so all sources of funding and the value of the Company's investments will be known before a selected VW Settlement RFP awardee is reimbursed by DES. An applicant will only be reimbursed from DES for up to 80 percent of the value of the VW Settlement eligible costs for the project. See Closing Statement of DES, August 10, 2022, at Pages 3–4.

III. TOWN OF DERRY COMMENT

On August 7, 2022, the Town of Derry filed a written comment requesting that the Commission establish "a municipal exception to the Settlement [Agreement]" that would enable municipal EV fleet operators, with non-publicly available charging stations, to qualify for the DCA rate structure. The DOE, in its written closing statement of August 10, 2022, opposed such an exception, based on the DCA being tailored to charging facilities with unpredictable, customer-driven load.

IV. COMMISSION ANALYSIS

Informal disposition is encouraged and may be made of any case at any time prior to the entry of a final decision or order. RSA 541-A:31, V(a), :38. New Hampshire Code of Administrative Rules, Puc 203.20(b) requires the Commission to determine, prior to approving a settlement, that the settlement results are just and reasonable and serve the public interest.

The Commission encourages parties to attempt to reach a settlement of issues through negotiation and compromise, as it is an opportunity for creative problem solving, allows the parties to reach a result more in line with their expectations, and is often a more expedient alternative to litigation. *Public Service Company of New Hampshire d/b/a Eversource Energy*, Order No. 26,433 at 18 (December 15, 2020); *EnergyNorth Natural Gas, Inc. d/b/a National Grid NH*, Order No. 25,202 at 18 (March 10, 2011). Even when all parties join a settlement agreement, the Commission cannot

approve it without independently determining that the result comports with applicable standards. *Id.*

In assessing the DCA proposal, the underlying standard to be applied in the first instance is whether the resulting rates are just and reasonable. RSA 374:2; 378:5; 378:7. For both the DCA proposal and the proposed Make-Ready Program proposal from Eversource presented in the Settlement Agreement, it is a settled principle that unreasonable cross-subsidization of expansionary business by an existing utility, or of one class or locality of utility customers by the general customer base of a utility, is to be avoided. *See Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities*, Order No. 26,109 at 15–22 (March 5, 2018); *In re: Concord Steam Corporation Non-Governmental Customers*, Order No. 26,017 at 11–12 (May 11, 2017); *C. Julian Tuthill et al. v. Plaistow Electric Light & Power Company*, 8 N.H.P.S.C. 509, 510 (1922), *cited by Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities*, Order No. 26,122 (April 27, 2018) at 37.

This precedent is undergirded by RSA 378:10; "[n]o public utility shall make or give any undue or unreasonable preference or advantage to any person or corporation, or to any locality, or to any particular description of service in any respect whatever or subject any particular person or corporation or locality, or any particular description of service, to any undue or unreasonable prejudice or disadvantage in any respect whatever." On the other hand, under RSA 378:11, "The provisions of RSA 378:10 shall not require absolute uniformity in the charges made and demanded by public utilities when the circumstances render any lack of uniformity reasonable." The Commission has discretion in balancing the need for fairness in avoiding cross-subsidization with ensuring the overall public interest. *Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities*, Order No. 26,122 at 37. Furthermore, as delineated in the August 10, 2021, Order of Notice for this proceeding, we are interested in ensuring

that Eversource's proposals, as agreed to by the Settling Parties, are consistent with the New Hampshire Energy Policy stated in RSA 378:37.

In this case, we are satisfied that the general concepts presented in the DCA, and the Make-Ready Program proposals are just and reasonable, concordant with the New Hampshire Energy Policy, will result in just and reasonable rates, will not result in unreasonable and unlawful cross-subsidization, and are in the public interest. There are several reasons for this in this specific case. Here, in contrast to the Unitil Energy Systems, Inc., EV make-ready proposal rejected by the Commission in Order No. 26,623 (May 5, 2022), in Docket No. DE 21-030, there is a clear cap on expenditures on the part of Eversource, to be recovered from customers, of \$2.1 million. This expenditure is well-proportioned in comparison to Eversource's large customer base, and the geographic scope of the Company's service territory in which it will make these expenditures. Also, it is clear on the record that all investments from Eversource's Make-Ready Program will supplement monies awarded from the VW Settlement as administered by DES, which, as indicated above, amount to \$4.6 million in statewide funding. This will provide more infrastructure benefit than would otherwise be available. We also note the 80–20 percent cost-sharing element of the VW Settlement, where EV charging station site hosts will be required to contribute at least 20 percent of the VW Settlement eligible costs, ensures that participating VW Settlement awardees, and subsequently Eversource Make-Ready customers, will share a significant portion of the up-front costs and will have the financial resources to maintain ongoing charging station operations.

Therefore, we approve the terms of the Settlement Agreement in their entirety. We must clarify, however, one element that was left open-ended by the Settlement Agreement's terms. We rule that for ratemaking clarity and transparency, the Company shall book up to \$2.1 million of prudently incurred Make-Ready Program

costs, with that amount not to be exceeded in any instance, as a regulatory asset. This regulatory asset shall not accrue any return on capital amounts in advance of the Company's next full distribution rate case. On filing of the next Eversource full distribution rate case, the Company may seek recovery of the Make-Ready Program cost regulatory asset, with up to \$650,000 in capital expenditures being eligible for Eversource's allowed return on capital, for inclusion into rates via Commission approval. The Commission does not restrict the Company's use of the \$2.1 million recovery to a specific portion of behind the meter or front of the meter investment, or capital or expense expenditures, but on balance limits the Company's return on capital expenditures based on the Make-Ready Program estimates provided in Hearings Exhibits 2 and 9.

The DCA cost-of-service study, to be completed within three (3) years of our approval here (or August 15, 2025) is duly noted. We hereby order that Eversource file this study with the Commission at the same time as it provides the study to the Settling Parties.

At the present time, we will not approve the extension of the DCA rate to non-public EV fleet charging operations, as we have no data to support such a ruling, and in light of the DOE's concerns.

Our rulings in this settled case do not necessarily govern our rulings on future proposals of this type. This suite of EV program-related proposals by the Company is experimental in nature, and we await the results over the coming years to guide and inform our future approaches to such concepts. It would appear that Eversource is the only regulated utility which will serve customer site hosts receiving funding under the VW Settlement at the present time. However, we do anticipate that other sources of outside funding may arise in the future for EV projects in our State.

Based upon the foregoing, it is hereby

ORDERED, that the Settlement Agreement filed in this docket, subject to the modifications and clarifications above, is hereby APPROVED; and it is

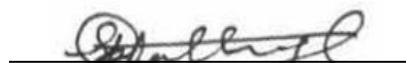
FURTHER ORDERED, that Eversource may expend up to \$2,100,000 for the EV Make-Ready Program discussed herein, with this amount to be accounted for in a regulatory asset, recoverable by Eversource in its next full distribution rate case, with up to \$650,000 in capital expenditures being eligible for Eversource's return on capital after approval in the next rate case; and it is

FURTHER ORDERED, that Eversource's DCA rate design and schedules, for effect beginning September 1, 2022, as presented in the Settlement Agreement, Hearing Exhibit 1, are hereby APPROVED; and it is

FURTHER ORDERED, that Eversource shall file its calculations, allocations, and conforming tariff pages, all as approved herein, within 15 days of the date of this order, consistent with N.H. Code Admin. Rules, Puc 1603.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of August, 2022.


Daniel C. Goldner
Chairman


Pradip K. Chattopadhyay
Commissioner


Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket# : 21-078

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