



OFFICE OF THE CONSUMER ADVOCATE

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October 6, 2021

Ms. Dianne H. Martin
Chairwoman and Agency Head
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301

Re: Docket No. DE 21-133
Public Service Company of New Hampshire d/b/a Eversource Energy, Granite
State Electric Company d/b/a Liberty, New Hampshire Electric Cooperative, and
Unitil Energy Services
Electric Assistance Program, 2021-2022 Budget

Dear Chairwoman and Agency Head Martin:

Please treat this letter as the response of the Office of the Consumer Advocate ("OCA"), on behalf of residential ratepayers (including the ratepayers who depend upon the Electric Assistance Program ("EAP") to afford their electricity bills), to Order No. 26,530, entered in the above-referenced docket on September 30, 2021.

We concur with the recommendation of the subject utilities, which they filed on October 5, 2021. As they pointed out, in July and August each of the utilities submitted its proposed EAP budget for the 2021-2022 program year, including the coming winter. As the utilities further noted, the EAP Advisory Board (on which the OCA is represented) has recommended approval of these budgets, as has the Department of Energy. Therefore, as the utilities point out, there is no discernable opposition to the proposed EAP budgets nor are there any legal or factual issues in dispute. With respect to previous program years, the lack of opposition to the budgets led to their swift and timely approval – well before the October 1 start of the program year.

In Order No. 26,530, the Commission nevertheless determined that it "must develop a more complete record before approving the EAP Advisory Board recommendation" and will therefore treat this docket as an adjudicative proceeding, culminating in a hearing at some unspecified date in the future. As a concession to the fact that the program year covered by the proposed budgets actually began five days ago on October 1, the Commission directed the utilities to implement their proposed budgets on an interim basis for the months of October and November.

The Office of the Consumer Advocate respectfully but emphatically disagrees with the approach laid out in Order No. 26,530. Proceedings related to the EAP budgets do not qualify as contested cases within the meaning of the Administrative Procedure Act. *See* RSA 541-A:1, I (defining

“adjudicative proceeding” as “the procedure to be followed in contested cases”) and :1, IV (defining “contested case” as “a proceeding in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after notice and an opportunity for hearing”). Indeed, we believe that House Bill 2, which went into effect on July 1, 2021 and created the Department of Energy, actually transferred to the Department of Energy the authority to review and approve EAP budgets.

We do not object to the utilities’ suggestion of approval of the budgets via order *nisi*. However, in our opinion an even better outcome – one fully consistent with the letter and spirit of applicable law -- would be for the Commission to determine forthwith that the budgets are approved in light of their having been agreed to by all interested parties including the Department of Energy.

We are not unsympathetic to the notion that, with the changes to the Commission and its personnel that have occurred during 2021, and in light of the advent on July 1 of the Department of Energy, a reexamination of the EAP and the assumptions underlying the program could be helpful. However, given the importance of the EAP to the state’s low-income community, and the fact that winter looms during a program year that is already under way, the better course of action would be to implement the 2021-2022 budgets and for the appropriate authority to open a new inquiry into the EAP that would inform approaches to low-income electric assistance for effect on October 1, 2022 and thereafter.

Thank you for considering the views of the Office of the Consumer Advocate as to this important matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Donald M. Kreis', with a stylized, flowing script.

Donald M. Kreis
Consumer Advocate

Cc: Service List (via e-mail)