

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 21-143

**CITY OF LEBANON
City Manager's Office
51 North Park Street
Lebanon, NH 03766**

Request for Approval of Lebanon Community Power Electric Aggregation Plan

Memorandum of Decision re: Request for Plan Approval

O R D E R N O. 26,571

January 26, 2022

In this decision, the Commission determines, without prejudice, that the Lebanon Community Power Electric Aggregation Plan fails to meet certain applicable statutory requirements, invites the City of Lebanon to participate in the upcoming rulemaking proceeding opened on January 10, 2022 in Docket No. DRM 21-142 regarding electric power supply aggregation, and encourages the City to re-submit an amended plan when the rulemaking process is closer to completion or has concluded. The Commission observes that the Plan is the result of a thoughtful and rigorous process at the municipal level and commends the City on the resulting Plan. The Commission wishes to encourage such community power aggregation because it will result in a more competitive market and greater customer choice.

I. BACKGROUND

On December 1, 2021, the City of Lebanon (Lebanon) submitted a request for approval of a community power aggregation plan to provide electric power supply and services for residents, businesses, and other entities in the City of Lebanon pursuant to RSA chapter 53-E. Accompanying its request, Lebanon submitted the text of its Lebanon Community Power Electric Aggregation Plan (Plan) with attachments.

On January 3, 2022, the Office of the Consumer Advocate filed a letter of participation in this matter. No comments or other filings were received in this matter.

Lebanon's request, along with all subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, will be posted to: www.puc.nh.gov/Regulatory/Docketbk/2021/21-143.html.

II. COMMISSION ANALYSIS

The Commission has reviewed Lebanon's Plan pursuant to RSA 53-E:7, II, as amended, which states that "[t]he commission shall approve any plan submitted to it unless it finds that it does not meet the requirements of this chapter and other applicable rules and shall detail in writing addressed to the governing bodies of the municipalities or counties concerned, the specific respects in which the proposed plan substantially fails to meet the requirements of this chapter and applicable rules." RSA 53-E:7, II also provides specific direction on the process to be used for the submission of such plans, including the following requirements: 1) on the same day the plan is submitted to the Commission, copies shall be provided to the Office of the Consumer Advocate and any electric distribution utility providing service within the jurisdiction of the municipality; 2) the Commission shall accept public comments for 21 days thereafter; and 3) the Commission's review of the plan and comments shall not require a contested case.

As noted above, no comments have been received in this matter to date.

1) Security for Individual Customer Data

RSA 368:38, IV requires that service providers, including Community Power Aggregators, use reasonable security procedures and practices to protect individual customer data from unauthorized access, use, destruction, modification, or disclosure.

On page 23 of its Plan, Lebanon acknowledges this requirement, but states only that Lebanon Community Power “shall maintain the confidentiality of individual customer data in compliance with its obligations as a service provider under RSA 363:38,” including “individual customers’ name, service address, billing address, telephone number, account number, payment information, and electricity consumption data” and that “[s]uch individual customer data will not be subject to public disclosure under RSA 91-A” and that suppliers and vendors will be contractually required to maintain the confidentiality of individual customer data pursuant to RSA 363:38, V(b).

The Plan, as filed, substantially fails to meet the applicable statutory standards in this regard. The Commission requires additional detail on the scope and nature of the customer data that will be in the possession, custody, and control of Lebanon or its suppliers and vendors, and the protective measures that will be utilized to protect that data from unauthorized access, use, destruction, modification, or disclosure.

2) Incorporation of Future Rules

RSA 53-E:7, X provides that the “commission shall adopt rules, under RSA 541-A, to implement this chapter... Such rules shall include but not be limited to rules governing the relationship between municipal and county aggregators and distribution utilities, metering, billing, access to customer data for planning and operation of aggregations, notice of the commencement or termination of aggregation services and products, and the reestablishment of a municipal or county aggregation that has substantially ceased to provide services.” The applicable rulemaking process was initiated on January 5, 2022 in Docket No. DRM 21-142, and may result in additional requirements that could have substantive impacts on the Commission’s evaluation of Lebanon’s Plan. At page 8, the Plan notes that “Lebanon Community Power will launch

after administrative rules governing Community Power are adopted by the Public Utilities Commission.” The Plan further references at pages 8-9 an informal rule drafting process, including bilateral meetings with utilities and other stakeholders, as well as stakeholder workshop discussions held during the course of 2020. It is clear that Lebanon has made important progress in a collaborative effort with stakeholders to develop a collective understanding of the scope of rules required for the implementation of its Plan. That said, the Commission believes that the establishment of statewide rules applicable to community power aggregations are needed, and that RSA chapter 53-E requires such rules to ensure that the statutory provisions for such plans are satisfied with consistency and uniformity throughout electric service territories within the State of New Hampshire.

Finally, we note that, although Lebanon has included a framework for local programs and customer services in its Plan, the Plan lacks sufficient detail on Lebanon’s interactions with utilities and their customers in the implementation of the Plan. We also note that this topic is addressed in great detail in the initial rulemaking process in Docket No. DRM 21-142, and that the rulemaking process is likely to address our concerns relating to balancing the interests of electric distribution utilities and their customers with those of municipalities such as Lebanon.

Therefore, to the extent that the Plan relies on future rules, we conclude that the proposed Plan fails to meet applicable statutory requirements. As the rulemaking proceeding to develop these rules has just commenced, the City is not at fault for this deficiency. However, we cannot find the Plan sufficient at this time. The Commission intends to work expeditiously with stakeholders to develop and implement rules to enable community power aggregations under RSA chapter 53-E.

(3) Operation, Funding, and the Methods of Entering into and Terminating Agreements

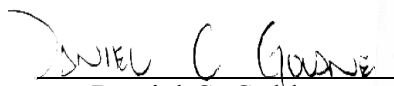
Lastly, with respect to the “operation and funding” and “methods of entering into and terminating agreements” criteria of evaluation under RSA 53-E:6, III(b) and (d), it is unclear whether Lebanon intends to serve as the Load Serving Entity (LSE), or whether that function will be contracted out and, if so, by which entity. We conclude that more detail describing the structure of the LSE and how the LSE services will be implemented, is necessary and should be addressed within subsequently filed versions of the Plan.

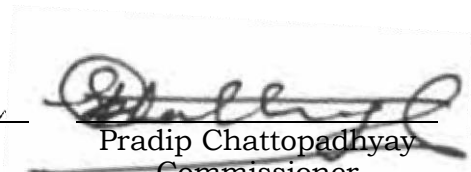
(4) Conclusion

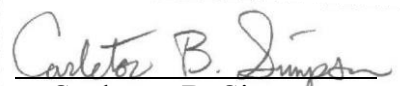
Therefore, we conclude that the Plan as filed substantially fails to meet statutory requirements in RSA chapter 53-E. We encourage the City to participate in the Docket No. DRM 21-142 rulemaking process and to re-submit a more refined plan when the rulemaking process is closer to completion or has concluded. The Commission intends to work promptly and efficiently with stakeholders to enable community power aggregations through the rulemaking.

Based upon the foregoing, it is hereby determined that the City of Lebanon’s Request for Plan Approval is **DENIED** without prejudice.

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of January, 2022.


Daniel C. Goldner
Chairman


Pradip Chattopadhyay
Commissioner


Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket# : 21-143

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