

**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. 26,674**

**August 30, 2022**

In this decision, the Commission determines that the City of Lebanon's Community Power Electric Aggregation does not fail to substantially comply with the laws and rules governing such plans, contingent on the Commission's final adoption of the N.H. Code Admin. R. Puc 2200 rule set.

**I. BACKGROUND**

On December 1, 2021, the City of Lebanon (Lebanon) submitted a request for approval of a community power aggregation (CPA) 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.

On January 26, 2022, the Commission issued a memorandum of decision, in which it denied Lebanon's request without prejudice. *See City of Lebanon*, Order No. 26,571 (January 26, 2022).

On July 1, 2022, Lebanon filed an amended request for approval of a CPA plan (Amended 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.

On July 5, 2022, the Commission issued an order of notice in this matter, directing that public comments be accepted pursuant to RSA 35-E:7, II, until July 26, 2022.

The Commission did not receive any public comments or other filings.

Lebanon's requests and related docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, is posted to the Commission's website at: [www.puc.nh.gov/Regulatory/Docketbk/2021/21-143.html](http://www.puc.nh.gov/Regulatory/Docketbk/2021/21-143.html).

## **II. COMMISSION ANALYSIS**

The Commission has reviewed Lebanon's Amended Plan pursuant to RSA 53-E:7, II, 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 and review 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.

Lebanon is a member of the Community Power Coalition of New Hampshire (CPCNH), a joint powers agency authorized under RSA 53-A. As a member of CPCNH, Lebanon's Amended Plan depends on joint resources with other member-

municipalities, including shared third-party services, staff support, power solicitations, local project development, information sharing, and public advocacy.

In denying Lebanon's December 1, 2021, request for approval of its CPA plan, the Commission focused on three areas where that plan did not meet statutory or rule-based requirements. These areas were: 1) the plan's incorporation of and reference to future rules still under development, governing metering, billing, access to customer data, and the commencement or termination of aggregation services and products by municipal and county aggregations; 2) the adequacy of individual customer data protection, and requiring more 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; and 3) with respect to statutory criteria identified in RSA 53-E:6, III(b) and (d), namely the operation, funding, and methods of entering into and terminating agreements, the Commission required more detail describing how the Load Serving Entity (LSE) services will be implemented.

### **1. Future Rules**

Similar to Lebanon's initial plan, at page 10 the Amended Plan provides that the Lebanon community power program will not launch until the Commission adopts 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 Commission has voted to adopt such a final rulemaking proposal, the Puc 2200 rule set, in Docket No. DRM 21-142. However, the rules are still under review by the Joint Legislative Committee on Administrative Rules (JLCAR) as of the Commission's deadline to issue this order, therefore the final rulemaking proposal has not been adopted pursuant to RSA 541-A:14. These future rules, therefore, are not actively under development, but rather may either be finalized in the near future or be subject to further processes.

If the final Puc 2200 rule set must be revised prior to the launch of Lebanon Community Power, it follows that Lebanon's Community Power Plan should be resubmitted for review based on the requirements of those rules. We therefore conclude that the Plan does not substantially fail to meet the requirements of applicable rules on the condition that the Puc 2200 rule set is adopted pursuant to RSA 541-A:14 in substantially the same form as the final rulemaking proposal presently under review by JLCAR.

If Lebanon Community Power is not able to launch following the adoption of the Puc 2200 rules as described herein, Lebanon shall re-submit its CPA plan for Commission approval once the rules are closer to being finalized.

## **2. Security for Individual Customer Data**

With respect to the security of customer data, Attachment 10 to Lebanon's Amended Plan details customer data protection. This supplemental information presents a facially compliant customer data protection plan applicable to customer data that will be in the possession of Lebanon, CPCNH, and potential brokers and competitive suppliers. The customer data protection plan includes detailed references to statutory requirements, existing rule requirements, and proposed rule requirements from the Puc 2200 initial proposal. The Amended Plan, therefore, addresses the


Commission's concerns with the earlier plan and is compliant with the statute and applicable rules.


### **3. Operation, Funding, and the Methods of Entering into and Terminating Agreements**


Finally, 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), Order No. 26,571 concluded that Lebanon's plan needed more detail describing the structure and implementation of LSE services. Attachment 9 to Lebanon's Plan clarifies this topic and presents a compliant overview of this topic. We also note that this topic is also touched on in the Puc 2200 final rulemaking proposal at various locations, including Puc 2205.01. The Amended Plan, therefore, addresses the Commission's concerns with the earlier plan and is compliant with the statute and applicable rules.

**Based upon the foregoing, it is hereby determined** that the City of Lebanon's Request for Plan Approval is APPROVED subject to the conditions herein.

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

  
Daniel C. Goldner  
Chairman

  
Pradip Chattopadhyay  
Commissioner

  
Carleton B. Simpson  
Commissioner

# Service List - Docket Related

Docket#: 21-143

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