

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

ELECTRIC DISTRIBUTION UTILITIES

Consideration of Changes to the Current Net Metering Tariff Structure,
Including Compensation of Customer-Generators

Docket No. DE 22-060

**JOINT MOTION FOR IMMEDIATE STAY OF ORDER NO. 27,074, NOVEMBER 18,
2024 SUPPLEMENTAL ORDER OF NOTICE, AND RESPONSES TO THE
NOVEMBER 25 COMMISSION INQUIRIES PENDING A MOTION FOR
CLARIFICATION AND RECONSIDERATION**

Pursuant to New Hampshire Code of Administrative Rules Puc 203.07, RSA 541:3, and RSA 541:5, Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty; Public Service Company of New Hampshire d/b/a Eversource Energy; Unitil Energy Systems, Inc.; (collectively, the “NH Utilities”); the New Hampshire Department of Energy (“DOE” or “Department”); Granite State Hydropower Association; Standard Power of America; Clean Energy New Hampshire; and Conservation Law Foundation (all together, the “Moving Parties”), respectfully request a stay of certain provisions of Order No. 27,074 (the “Order”) and the entirety of the Supplemental Order of Notice (“Notice”) (both issued November 18, 2024) and the record requests issued November 25, 2024 by the New Hampshire Public Utilities Commission (the “Commission”) in the instant docket.

The Order directed that compensation for net-metered customers stay at current levels for the time being and approved application fees for interconnection applications. The Commission neither approved nor rejected the settlement agreement signed by all but two parties to this docket and established three new phases of this proceeding. One phase commenced immediately, and the other two are scheduled to commence in less than a month. The three new phases cover a range

of issues, some already addressed in this docket, and some newly raised by the Commission. Together, the Order and the Notice (as well as the information requests issued pursuant to the Notice) raise critical questions for which one or more of the Moving Parties may seek further clarity from the Commission, through a motion for clarification and reconsideration they intend to file within the 30-day window reserved for such motions, which concludes on December 18, 2024.

Given that the window for motions for rehearing or reconsideration of the Order is still open, the Moving Parties respectfully request that the Commission grant an immediate stay of the provisions of the Order pertaining to the three new phases and of the Notice in its entirety, until such time as an order is issued on any future motion for clarification and reconsideration. Such a stay will promote the orderly resolution of the docket by providing necessary clarification on the scope and meaning of the Order and the Notice, and is therefore just, reasonable, and in the public interest. In support of this motion, the Moving Parties state the following:

I. BACKGROUND AND PROCEDURAL HISTORY

Hearings were held in this docket on August 20 and 22, 2024. During those hearings, the parties to the docket addressed the noticed issues in the proceeding. All parties had full due process on those issues, with the opportunity to provide direct examination, cross-examination, and closing statements provided through post-hearing briefs. Additionally, the Community Power Coalition of New Hampshire (“CPCNH” or the “Coalition”) raised the issue of utility load settlement reporting to ISO New England, which was not noticed in this proceeding. CPCNH also put forth positions on the noticed issues in this docket. However, CPCNH’s positions remained largely conceptual in nature. The parties submitted post-hearing initial briefs on October 4, and reply briefs on October 18, 2024.

The Commission issued the Order on November 18, 2024, finding that compensation for net-metered customer-generators should remain constant for the time being, approving utility application fees for distributed energy resource (“DER”) applications to cover incremental administrative resources needed to process those applications, and maintaining the current tariff’s December 2040 end date for customers beginning to net meter during this new net metering tariff phase. As for all remaining issues pending before the Commission, the Order did not decide those issues, but instead stated that “[t]he Commission favors a competitive environment because that ultimately benefits ratepayers at large, whether they are served by the utilities, competitive energy suppliers, or community power aggregators” and that “[t]he Commission agrees that CPCNH’s proposals merit further consideration.” Order at 32. The Commission did not rule on the Settlement Agreement.

Shortly after the Order was issued, the Commission issued the Notice, which stated that the Commission would “consider additional changes to the net metering tariff in this docket pursuant to RSA 362-A:9, XVI, RSA 374:2, and RSA 378:7.” Notice at 1. Phase 1 identifies four issues to be addressed in the next three months, starting immediately: the definition of “customer-generator”; small vs. large customer-generator categorization; modification of compensation levels; and net metering hardware and processing. The Notice lays out a procedural schedule consisting of Commission-issued record requests to be served upon the NH Utilities, party-issued data requests to be served upon the NH Utilities, the NH Utilities filing a recommendation in addition to answering the various requests served upon them, the opportunity for parties to file a response to the NH Utilities’ initial recommendation; and a hearing to be held on February 13, 2025. The procedural schedule provides no opportunity for the filing of testimony by the NH Utilities or any other party.

Phase 2 as described in the Notice outlines six issues raised by CPCNH at the August 20 and 22, 2024 hearings, and directs CPCNH to file a procedural schedule for this phase by December 16th with a hearing to be held in April 2025. Finally, Phase 3 is comprised of a data collection effort similar to that provided for in the settlement agreement filed in the docket, albeit under a shorter timeline. The Notice also adds periodic reporting requirements of the NH Utilities to the Commission throughout the data collection effort. On November 25, 2024, the Commission issued its record requests for Phase 1: twelve for the NH Utilities and four for CPCNH. Responses are due December 20, two days after the close of the period for filing motions for rehearing or reconsideration of the Order and Notice.

II. LEGAL STANDARD

Pursuant to RSA 541-A:31 and N.H. Code Admin. R. Puc 203.13 and 203.15, the Commission has authority to direct the timing and process of an adjudicatory proceeding. That authority includes the power to stay or suspend activity in an adjudication when doing so would promote the efficient resolution of issues before the Commission. *Residents of Colonial Drive, Moultonborough*, Order No. 26,841 at 7 (June 8, 2023).

III. REQUEST FOR STAY

Granting this motion for immediate stay will promote efficiency because the period to file motions for clarification, reconsideration, or rehearing on the Order has not passed. One or more of the Moving Parties may seek clarification and reconsideration of the Order and they should be afforded the full period of time allowed by statute to develop and file any such motions. There appear to be no inherently time-sensitive issues in Phase 1 that require immediate action, but staying the three new phases until resolution of the issues on which the

Moving Parties seek clarity would benefit all parties and could directly affect the new phases of the proceeding.

For that reason, it would be inefficient to proceed with any of the new phases before the Commission has decided the issues to be raised in the motions for reconsideration and clarification, as that determination is likely to affect the scope and timing of procedural events in this docket. For example, one or more parties may seek clarification regarding the scope of the November 25 Commission information requests, as well as jurisdictional questions (i.e., jurisdiction of the Commission vs. the DOE) related to their scope, so it is possible that a decision on the motion will moot or materially impact some of those inquiries. In view of this possibility, and in light of the fact that there is no immediate time sensitivity for commencement of the new phases of the docket, beyond that created by the procedural schedule outlined in the Order and the Notice, it would be more efficient to wait for the time period to file any motions on the Order and the Notice to close and, should any party file such a motion, for the Commission to decide that motion prior to commencing any work on future phases of this docket.

As a final consideration, the NH Utilities have reviewed the Commission's inquiries issued on November 25th, and the volume of data requested in question 2 is tremendous, as it asks for dozens of data points for thousands of utility customers, some of which are not readily available and would need to be manually compiled, while others are not recorded or otherwise available at all to some or all of the NH Utilities.

There are a number of other issues that may be addressed in a motion for clarification or reconsideration, which will clarify for all parties how best to move forward in this or another proceeding. In the event that the Commission denies this request for a stay, the NH Utilities will

nonetheless require an extension on the responses to the inquiries regardless of any pending motions to be filed, as the volume of data requested cannot be assembled within the current timeframe with a response deadline of December 20th. However, the Moving Parties reiterate that a stay of all aspects of the future phases of the proceeding would be the most efficient path forward to resolve any issues that require further clarity regarding the proposed new steps in the docket before those steps proceed.

WHEREFORE, the Moving Parties respectfully request that the Commission:

- A. Grant a stay of the above-mentioned portions of the Order, the entire Notice, and the responses to the Commission's Phase 1 inquiries to the NH Utilities, for the reasons set forth above, until the Commission rules on any motions for clarification, reconsideration, or rehearing filed by parties to this docket, or at a minimum until the period for filing such motions is closed if no such motions are filed by that date;
- B. Grant this motion for stay prior to the December 20, 2024, due date for the Commission's information requests for the new Phase 1 of this docket, as the NH Utilities are unable to provide the information requested within that timeframe. Or alternatively, to provide an extension of 2 months until February 20, 2025 for the NH Utilities to submit the responses should this motion for stay be denied; and
- C. Grant any such other or further relief as may be just and reasonable.

(signatures follow on next page)

