

**BEFORE THE PUBLIC UTILITIES COMMISSION
STATE OF NEW HAMPSHIRE**

DE 22-061

ELECTRIC DISTRIBUTION UTILITIES

**Investigation of Potential Jurisdictional Conflicts Related to
Authorization of Pilot Programs Under RSA 362-A:2-b**

December 9, 2022

Petition to Participate or Intervene and Convert to an Adjudicated Proceeding

Now Comes the Community Power Coalition of New Hampshire (“CPCNH”) and petitions the New Hampshire Public Utilities Commission, in response to its Order of Notice, issued on September 20, 2022, in this docket and pursuant to NH Code of Administrative Rules Puc 203.02 and Puc 203.17, to allow CPCNH to participate or intervene in the above-captioned matter and convert this investigation into an adjudicated proceeding for the following reasons:

1. CPCNH is a voluntary New Hampshire nonprofit corporation with a principal place of business of City Hall, 51 North Park St., Lebanon, NH 03766 and a mailing address c/o Sustainability Director, Town of Hanover, 41 S Main Street, Hanover NH 03755
2. CPCNH is a governmental instrumentality of its 24 members comprised of 23 NH municipalities and one county and is organized pursuant to a joint powers agreement under NH RSA 53-A and 53-E:3, II(b). Two additional municipalities have just recently executed the JPA, but have not yet been admitted as members by the Board of Directors of CPCNH.
3. CPCNH is in the process of standing up as a functioning joint power supply agency to procure and supply electricity and related services to member community power programs.
4. CPCNH is planning to support the launch of initial member community power aggregations as alternative default energy service providers in the spring of next year pursuant to RSA 53-E and RSA 374-F:2, I-a.
5. All 3 NH investor-owned electric distribution utilities, plus the NH Electric Cooperative, serve member communities and each of CPCNH’s member municipalities and county governments are themselves customers of one or more of these utilities.

6. The JPA authorizes CPCNH “to jointly exercise certain powers, privileges, and authorities granted to municipalities and counties pursuant to NH RSA 33-B, NH RSA 53-E, NH RSA 53-F, and NH RSA 374-D (and by reference NH RSA 33), all in accordance with NH RSA 53-A” “in order to study, promote, develop, conduct, operate, and manage energy-related programs, and to exercise all other powers necessary and incidental to accomplishing this purpose.” Article 7.16 of its Articles of Agreement, part of the JPA, specifically grants CPCNH the power to “[i]ntervene in germane regulatory proceedings on behalf of itself and its Members”.
7. The above referenced RSA 374-D authorizes towns, cities, and counties to “design, develop, acquire, and construct small scale power facilities at sites owned or leased by them or otherwise made available to them” and to operate such facilities.
8. CPCNH testified in support of SB 321, which created RSA 362-A:2-b, in the both the NH Senate and House earlier this year.
9. CPCNH members are interested in developing or purchasing the output from distributed generation and storage facilities to serve community power loads and would like to collaborate with electric distribution utilities to pilot such pursuant to RSA 362-A:2-b.
10. CPCNH itself under its Articles of Agreement has the power to “[a]cquire, purchase, finance, offer, arrange, construct, maintain, utilize and/or operate” such distributed generation and storage facilities on behalf of its members.
11. Considering all of the above, CPCNH has rights, duties, and/or privileges, that may be affected by the outcome of this proceeding if is turned into an adjudication.
12. CPCNH’s intervention would not impair the orderly and prompt conduct of the proceedings, will not result in undue delay, and will not prejudice the interest of any party.

Support for Conversion to an Adjudicated Proceeding

13. As RSA 362-A:2-a, III requires the Commission to “to determine definitively whether any jurisdictional conflicts exist concerning” the operation of pilots under RSA 362-A:2-b.
14. The only real way to make such a definitive determination is through an adjudicated proceeding in which a final decision may be appealed to the NH Supreme Court and/or Federal courts, which would provide a definitive determination of the jurisdictional issues, if any party does not accept the Commission rulings of law in this matter.

15. Thus, CPCNH wholeheartedly concurs with the December 1, 2022, NH Electric Utilities' Motion to Commence an Adjudicative Proceeding pursuant to RSA 541-A in this matter in lieu of an investigation for the reasons stated here and therein.

WHEREFORE, CPCNH requests that the Commission convert this docket into an adjudicative proceeding and grant this petition to allow CPCNH to participate, and if converted to an adjudication to be made a full intervenor, in this proceeding and grant such other relief as is just and proper.

Respectfully submitted this 9th day of December 2022

Community Power Coalition of New Hampshire

A handwritten signature in black ink that reads "Clifton Below". The signature is written in a cursive style and is positioned above a horizontal line.

by CPCNH Chair Clifton Below, duly authorized