

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

IR 22-076

ELECTRIC DISTRIBUTION UTILITIES

**Investigation of Whether Current Tariffs and Programs are Sufficient to Support
Demand Response and Electric Vehicle Charging Programs**

May 9, 2023

COMMUNITY POWER COALITION OF NEW HAMPSHIRE
REPLY COMMENTS

The Community Power Coalition of New Hampshire (CPCNH) is a power agency that provides electricity supply service to customers on a default and competitive basis, operating with the combined authority of our thirty-two municipal members — representing nearly a quarter of the population in New Hampshire — twelve of which have or will soon shortly conclude the process of mass enrolling customers across our joint service territory onto Community Power Aggregation (CPA) service.

Consequently, this summer, CPCNH will serve a larger default customer base than either Unitil Corporation or Liberty Utilities, with more customers than any one competitive provider in NH, and we anticipate overtaking Eversource to become the largest default supplier in the state within the next one to two years.

In preparation for assuming this responsibility, and to be functionally capable of re-invigorating market-driven innovation in customer rates, products, and services while structuring and actively managing a portfolio of wholesale, distributed, and retail energy resources to maintain competitive rates for participating customers, CPCNH has:

- Adopted Energy Portfolio Risk Management, Retail Rates, and Financial Reserves Policies, along with Energy Portfolio Risk Management Regulations, formed a Risk Management Committee that convenes regularly to oversee and carry out portfolio and procurement decisions, and hired Brian Callnan (NHEC's VP of Power Resources and Access) to be our first CEO starting on May 22, 2023.

- Licensed industry leading portfolio risk management / power planning software, and contracted for commodity risk management advisory / hedge transaction services, both from Ascend Analytics, LLC — inclusive of the capabilities required to competitively solicit and value multiple offers for constructing local energy projects, and to incorporate such projects as well as customer products / programs / advanced rate structures into a cost-effective, holistic wholesale and retail power portfolio (i.e., to simultaneously lower costs for customers while lowering risk for the overall portfolio).
- Contracted with Calpine Energy Solutions, LLC, for the provision of Electronic Data Interchange (EDI), retail customer information management, consolidated and passthrough billing, and customer call center services — inclusive of the capabilities required to enable advanced rate structures, new distributed energy services, and a variety of local programs.
- Contracted with Champion Energy Services, LLC, to serve as CPCNH’s ISO-NE Market Participant and Load Serving Entity on behalf of participating customers, and to register as the supplier designated with the distribution utilities (through a newly formed subsidiary dedicated to serving CPCNH) — inclusive of ISO-NE power scheduling services that integrate Ascend Analytics’ software that employs machine learning to optimize market bid strategies (to maximize cost savings through the intelligent dispatch of distributed energy and demand response resources in response to short-term, rapid price movements).
- Secured ~\$30 million in credit support and direct financing to capitalize our startup activities and initiate power supply service, successfully concluded two competitive solicitations (to-date) for physical power, and set rates at a level such that, for this current ratesetting period (i.e., between now and the end of July):
 - The vast majority of our initial ~65,000 customers are enjoying 20% to 40% rate decreases relative to the current default supply rates charged by Eversource, Unitil Corporation, and Liberty Utilities; and
 - CPCNH will additionally accrue and begin collecting a forecasted \$8 million in Financial Reserves to ensure financial stability and future rate relief for Community Power customers.

Unfortunately, after contracting for the functional capability to offer a much broader range of innovative customer services than those available under utility service — all of which

CPAs should be able to employ, pursuant to RSA 53-E and Puc 2200 rules — CPCNH subsequently discovered that the utilities have largely foreclosed innovation in NH’s competitive retail market *by essentially not “flicking the switch” on various ‘back office’ data and billing services that they are supposed to be administering in a competitively neutral fashion for both CPAs and CEPS (Competitive Electric Power Suppliers).*

CPCNH voiced certain of these concerns to the Commission at the February 16th hearing, at which time we were still in the process of gaining full view of the limitations imposed by utility noncompliance:

A quarter of a century ago, the Working Group on EDI contemplated an EDI structure, and it's on the PUC website, that would enable three-part time-of-use rates, off-peak, on-peak, and a shoulder in between. That's never been enabled, even though it was part of the vision a quarter of a century ago.

And, unfortunately, as we're trying to prepare to launch community power aggregation programs, we are learning that the utilities do not allow competitive suppliers or community power aggregations to offer power supply rates based on their existing time-of-use rate structures. And their tariffs, either explicitly or implicitly, indicate that, if you're using our time-of-use rate time periods, you should be able to use our consolidated billing to offer time-of-use rates to customers. They're all saying, well, I'm not sure about Liberty yet, but they're saying that they can't actually do that. That, if we want to enroll customers, and Eversource has just said they're not going to tell us whether the customer is on time-of-use before we enroll them, they're just going to get a flat rate, and we would take away what time of use they have.... So, it is an obstacle to demand response, it's an obstacle to time-of-use rates, and it's an obstacle for competitors and community power aggregations to serve in an innovative and a cost-effective way customers with appropriate price signals.¹

The Consumer Advocated subsequently cited to CPCNH and provided additional context regarding the anti-competitive concerns inherent in permitting utilities to exercise control over market-enabling infrastructure:

¹ Transcript of Hearing Held 02/16/23, p. 17-18.

I was very concerned to hear what Mr. Below had to say on behalf of the Community Power Coalition of New Hampshire. I have been around the Public Utilities Commission for more than 20 years now, and a consistent theme I've noticed over those years is the question of EDI, and the extent to which utilities use EDI as a means of thwarting efforts to divest them of their hegemony.

And, you know, there's a long history of them doing that to competitive energy suppliers. And, if they are using their EDI systems, and the lack of flexibility of their EDI systems, so as to thwart the roll-out of community power, that is a big problem that must be adjudicated, and soon.²

CPCNH has now initiated Community Power supply service and has a clear view of the various, extensive ways in which utilities have failed to enable competitive provision of retail services to customers. These and other related matters will be detailed in CPCNH's complaints against each utility that are currently being finalized for submission to the Commission.

In brief, CPCNH is being foreclosed from even matching the level of customer service available on utility-administered default supply services, including from offering rates that vary by time-of-use (TOU) period, such as for for Electric Vehicle (EV) and battery storage customers, or by compensating / crediting net metering customer-generators for the supply component of their excess generation.

Relevant here is that these customers are the residents and businesses in New Hampshire who are the most engaged and willing — and who are already taking action — to avail themselves of the options currently available to them on default supply service to lower their energy costs by embracing the intelligent use of new technologies.

Eversource misdirects on this topic by asserting "...just because New Hampshire promotes the competitive electric market and has implemented other mechanisms such as time varying rates, both the competitive market and rate designs are contingent upon customer participation to achieve the desired policy purpose."³ The utility fails to mention that "customer

² Transcript of Hearing Held 02/16/23, p. 25.

³ Eversource Opening Comments, p.5.

participation” to elect “time varying rates” has been foreclosed for mass market customers by the utility.

Utility foreclosure of the data and billing services required for CPAs to serve the most engaged segment of the state’s mass market default customer base has effectively relegated CPAs to being wholesale suppliers with structurally limited means of creating new value for either customers or communities.

Eversource appears to assume that this is proper, and misdirects again by discussing CPAs solely in their capacity as “acting as a load serving entity (LSE)” for purposes of participating in the “wholesale market settlement system administered by ISO New England (“ISO-NE”)” and that consequently “state regulators lack authority” regarding the “market rules subject to regulation by the Federal Energy Regulatory Commission (“FERC”)”,⁴ as though that had any relevance here.

The utility does so in attempt to justify various anti-competitive asserts such as:⁵

- “DR is not a function of the competitive market – it is a policy-driven, regulatory market intervention intended to achieve the policy objective of leveling off peak demand on the grid (and avoids costs associated with those peaks).
- “Market barriers aren’t preventing greater DR management.”
- “DR programs exist separately from and do not depend on the competitive retail or wholesale electricity markets, so such programs do not make the existing markets more competitive per se.”
- “In summary, there are meaningful opportunities for DR program expansion that may be achieved through initiatives adopted at the retail regulatory level, as may be approved by the Commission, and without changes to existing competitive retail electricity market structures or to FERC-jurisdictional wholesale power market structures.”

CPCNH strongly disagrees. We observe that the utility’s position openly contravenes state policy and Commission orders and that their arguments are entirely designed to elevate utility-administered programs as the sole mechanism available to expand retail services which

⁴ Eversource Opening Comments, pp. 5-6

⁵ Ibid.

create customer value for the residents and businesses of New Hampshire. In short, Eversource advocates for why the utility's unjust monopolization of retail services should be strengthened.

New Hampshire will never become “the most innovative state within the electricity market”⁶ so long as the utilities are permitted to structurally foreclose market-driven innovation. Instead, the Commission will be forced to administer procedurally the extent and pace of innovation, constrained to utility-led programmatic initiatives and proposals. To further underscore the price risk and delays inherent in this approach, CPCNH observes how the Commission rightly rejected recent proposals submitted by Eversource⁷ and Unitil⁸ regarding alternative metering and EV pilots.

Similarly, Eversource attempts to misdirect on the relevance here of the utility's Electronic Data Interchange (EDI) system, apparently because “EDI is not designed for the exchange of real-time metering or system operational data, and therefore it is not useful for any type of control or dispatch in real-time of distributed energy resources, such as those related to existing DR programs.”⁹ Here, as more relevant, CPCNH cites to Unitil's observations and corresponding recommendation that:

- “There is a general expectation that the transactive energy market will evolve as electrification and DER technologies advance and are adopted. The overall vision for Transactive Energy is not clearly defined within the scope of this docket (or even nationally) which will likely lead to much speculation as to what and when enabling technologies should be deployed and who should own, operate, or control aspects of this market.”¹⁰
- “In order to adopt an optimized set of data sharing and communications standards to facilitate the development of a TE market and future integrated operations of such, a common vision of TE needs to be developed (and accepted), and clear objectives outlined first.”¹¹

⁶ Commissioner Simpson Statement, Hearing Transcript at 93 (Feb. 7, 2023, Docket No. DE 17-189).

⁷ Order No. 26,797, at 9 (Mar. 31, 2023, Docket No. DE 20-170).

⁸ Order No. 26,623 (May 3, 2022, Docket No. DE 21-030).

⁹ Eversource Opening Comments, p. 8

¹⁰ Unitil Opening Comments, p. 7


¹¹ Unitil Opening Comments, p. 8

- “Rate options must provide proper price signals and influence customer behavior in a manner that creates beneficial outcomes for the customer (through lower rates and electric bills) and for the utility (through a reduction in system costs over time). To achieve these objectives, the design of the rate options should only reflect system costs that are time-varying in nature, and provide customers a cost-based price signal through the rate design.”¹²

CPCNH concurs that additional, more modern modes of data exchange are warranted to support a Transactive Energy future. However, the first order of business is for the Commission to identify and remove barriers to retail market innovation due to the current anti-competitive practices of NH’s investor-owned utilities, including their administration of EDI systems and related data and billing services they are supposed to be enabling for CEPS and CPAs to serve retail customers.

Thank you for the opportunity to share these thoughts. I look forward to contributing more substantively going forward, to the comments submitted to date, and with the submission of CPCNH’s forthcoming complaints against the utilities, which I expect will support and enhance the final round of comments in this investigation.

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

¹² Unitil Opening Comments, p. 12