

**BEFORE THE NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

UNITIL ENERGY SYSTEMS, INC. : DOCKET NO. DE-23-002  
PROPOSED PURCHASE OF :  
RECEIVABLES PROGRAM : JUNE 9, 2023

**NRG RETAIL COMPANIES’ COMMENTS**

Direct Energy Services, LLC; Direct Energy Business, LLC; Direct Energy Business Marketing, LLC; Reliant Energy Northeast LLC; and XOOM Energy New Hampshire, LLC (collectively, the “NRG Retail Companies”) hereby submit their comments regarding the proposed purchase of receivables (“POR”) program submitted by Unitil Energy Systems Inc. (“UES” or “Company”) in the above-captioned proceeding.

**INTRODUCTION**

New Hampshire’s municipal aggregation law<sup>1</sup> authorizes municipalities to aggregate electric power supply and operate approved community aggregation programs.<sup>2</sup> In 2021, the New Hampshire legislature amended that law to authorize the purchase of receivables of competitive electric power suppliers (“CEPS”) by the electric distribution utilities (“EDUs”).<sup>3</sup>

On October 7, 2022, the Commission filed final rules with the Division of Administrative Rules implementing the provisions of RSA 53-E (“Puc 2200 Rules”).<sup>4</sup> Among other things, the Puc 2200 Rules require each EDU to propose a POR Program.<sup>5</sup> In compliance with this

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<sup>1</sup> Revised Statutes Annotated (“RSA”) Chapter 53-E.

<sup>2</sup> RSA 53-E:3-a.

<sup>3</sup> RSA 53-E:9, II.

<sup>4</sup> See Docket No. DRM 21-142, *Community Power Coalition of New Hampshire Petition for Rulemaking to Implement RSA 53-E for Community Power Aggregations by Stakeholders*, Notice No. 2022-14 – Adoption of Final Rules (Oct. 7, 2022).

<sup>5</sup> Puc 2205.16(e).

requirement, on January 10, 2023, UES filed testimony and supporting materials outlining a proposal for a POR program.<sup>6</sup>

On February 2, 2023, the Commission issued a Commencement of Adjudicative Proceeding and Notice of Prehearing Conference offering interested parties an opportunity to file petitions to intervene in the proceeding.<sup>7</sup> Subsequently, the NRG Retail Companies filed a petition to intervene,<sup>8</sup> which was granted on March 21, 2023.<sup>9</sup>

Based on the information derived from the UES testimony and the technical session as well as UES' responses to data requests and consistent with the approved procedural schedule,<sup>10</sup> the NRG Retail Companies hereby submit their comments regarding the proposed UES POR program.

## COMMENTS

The overarching purpose of a POR program is to mitigate the risk that CEPS bear regarding nonpayment by customers, whether those customers are being served in the aggregate via the community power aggregation program offered by New Hampshire municipalities or on an individual basis in the competitive retail market. Unlike the EDUs, CEPS do not have the statutory authority to disconnect customers for nonpayment and are relegated to the limited remedy of customer de-enrollment. The expectation is that implementation of a well-designed POR program will reduce the financial and administrative barriers that CEPS face in the competitive market; thereby, increasing the number of market participants and enhancing retail

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<sup>6</sup> See UES Proposed Purchase of Receivables Program (Jan. 10, 2023).

<sup>7</sup> Commencement of Adjudicative Proceeding and Notice of Prehearing Conference (Feb. 2, 2023) ("Notice"), at 4.

<sup>8</sup> NRG Retail Companies' Petition to Intervene (Mar. 10, 2023).

<sup>9</sup> Prehearing Conference Transcript (Mar. 21, 2023), at 5.

<sup>10</sup> See Proposed Procedural Schedule (Mar. 28, 2023); Procedural Order Re: Proposed Procedural Schedule (Mar. 30, 2023) (approving the proposed schedule and setting hearing dates).

competition, especially for the state’s nascent community aggregation program. Thus, the adoption of a POR program that requires UES to purchase the receivables of all CEPS that choose Consolidated Billing service is in the public good.<sup>11</sup> Accordingly, the NRG Retail Companies support the Commission’s approval of such a program in the UES service territory. However, for the reasons set forth more fully below, the NRG Retail Companies request that the Commission order UES to: (a) modify its proposed schedule for payment to CEPS; (b) limit the substantive changes to UES’ Competitive Electric Supplier Trading Partner Agreement for Billing Service and Purchase of Receivables Program (“TPA”) to those necessary to implement the POR program; and (c) require UES to follow the electronic data interchange (“EDI”) change control process<sup>12</sup> to implement modifications to the New Hampshire EDI standards to accommodate POR.

## **I. ADOPTION OF THE UES POR PROGRAM IS IN THE PUBLIC GOOD**

POR encourages the entry of new competitors into a market that relies on utility consolidated billing by placing CEPS in approximately the same position as the EDU default service provider for purposes of cash flow and working capital. Accordingly, the effective implementation of POR will increase CEPS participation in the retail market and provide consumers with greater access to competitive and innovative rate plan offerings.

A POR program mitigates collection risk for CEPS by establishing the terms and conditions by which the EDUs purchase the accounts receivable of CEPS operating in the EDUs’ service territories. Notably, while a POR program makes the EDUs responsible for the collection of the charges assessed by CEPS on EDU issued bills, it does not increase risks to the EDUs or

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<sup>11</sup> *Cf.* RSA 53-E:9, I (authorizing the POR program to include all CEPS if the Commission finds “that it is for the public good.”).

<sup>12</sup> EDI Training Guide, Part 1 (available at: <https://www.puc.nh.gov/electric/EDI/Part001.pdf>) (last visited Jun. 7, 2023).

distribution customers. Indeed, as the Connecticut Public Utilities Regulatory Authority (“PURA”) found when it required The Connecticut Light and Power Company d/b/a Eversource Energy to adopt a POR program:

Reflecting the generation portion of . . . uncollectibles through a [POR] mechanism does not increase the cost. Instead, it allocates a portion of this expense to the generation component of rates and allows the cost to follow generation rates whether these rates are billed by [the EDU] or a supplier. Therefore, [an EDU] is not subjected to any greater risk regarding the recovery of this expense than it is under traditional ratemaking.<sup>13</sup>

The most important component of a POR program is establishing the discount percentage rate (“DPR”) at which the EDUs purchase the receivables from the CEPS (i.e., the percentage discount that each EDU applies to the full amount owed from customers to CEPS participating in the program). In turn, the most critical factor of the DPR is the Uncollectible Percentage (“UP”). During the first year of the POR Program, UES proposes to calculate the UP “as the uncollectible expense for the applicable customer class based on actual data for Default Service Customers, divided by the total amounts billed by the Company for Default Service Supply, including late payment fees if included in uncollectible expenses.”<sup>14</sup> In future years, UES will calculate the UP based on actual uncollectible expense and revenue data for CEPS customers.<sup>15</sup> Like the Connecticut program, allocating this uncollectible expense to CEPS avoids increased risk to the EDUs or distribution customers.<sup>16</sup>

A POR program also will not increase the costs borne by the EDUs or distribution customers. In fact, the law authorizing the POR program specifically prohibits the EDUs or

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<sup>13</sup> See PURA Docket No. 05-08-05RE02, *DPUC Investigation Into the Process By Which Customers Can Choose an Electric Supplier When Initiating Electric Service – Amended Referral Program*, Decision (Oct. 10. 2007) (“CT POR Decision”), at 10.

<sup>14</sup> UES Proposed POR Program, Exhibit CJGSED-1, at 7.

<sup>15</sup> *Cf.* DOE 1-10 at Attachment NRG-1.

<sup>16</sup> *Cf.* CT POR Decision, at 10.

default service customers from assuming the costs associated with the program.<sup>17</sup> Moreover, because UES has proposed class-specific DPRs,<sup>18</sup> the proposed program will also eliminate potential cross-subsidization among customer groups.

UES' POR program will broadly promote retail choice and customer access to competitive markets without increasing risks or costs to the EDUs or distribution customers; thus, serving the public good.<sup>19</sup> Moreover, the POR Program is generally modeled off the Fitchburg Gas & Electric Company, Inc. d/b/a Unitil ("FGE") POR program in Massachusetts<sup>20</sup> that includes many of the important attributes detailed above and has been in successful operation since 2015. Thus, the NRG Retail Companies support the Commission's adoption of the UES proposed POR program with the modifications described below. Further, the NRG Retail Companies strongly endorse UES' proposal to assign applicable write-off percentages by customer class because this properly assigns the bad debt or uncollectible expenses by rate classification and will eliminate potential cross-subsidization among customer groups.

## **II. THE COMMISSION SHOULD REQUIRE EACH OF THE EDUS TO ADOPT CONSISTENT POR PROGRAMS**

UES has proposed that, on or about February 1 each year, it make an annual reconciliation filing to establish the DPR to be effective on May 1.<sup>21</sup> NRG supports this proposal and, to ensure consistency, recommends that the Commission require that all EDUs implement the same schedule for their annual reconciliation filings.

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<sup>17</sup> RSA 53-E:9, II ("[T]he utility's participation in the purchase of receivables program shall not require the utility or non-participating consumers to assume any costs arising from its use.").

<sup>18</sup> UES Proposed POR Program, Exhibit CJGSED-1, at 6 ("[T]he Company proposes class-specific DPRs for two class groupings: (1) the Residential Service Class; and (2) the General Service Class.").

<sup>19</sup> See RSA-E:9, I (authorizing the POR program to include all CEPS if the Commission finds "that it is for the public good.").

<sup>20</sup> UES Proposed POR Program, Exhibit CJGSED-1, at 10.

<sup>21</sup> *Id.* at 11.

UES has also proposed that it “make a single monthly payment on the last Business Day of the calendar month to each participating Competitive Supplier for all POR customers billed on their behalf during the prior calendar month of service.”<sup>22</sup> However, Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource”) has proposed that payments to CEPS be made monthly consistent with the combined average payment period of the applicable customer class as is done by Eversource’s affiliate in Massachusetts.<sup>23</sup> The Eversource proposed payment schedule is more equitable because it ensures that CEPS receive more timely payments and avoids potential negative impact to CEPS cash flow. Thus, NRG Retail recommends that the Commission require UES to adopt the same payment schedule.

### **III. THE PROPOSED TPA MODIFICATIONS GO BEYOND THOSE NECESSARY TO IMPLEMENT POR**

In response to a data request from the Department of Energy, UES provided proposed changes to its TPA.<sup>24</sup> While the NRG Retail Companies support changes to the TPA that are necessary to implement POR or are considered administrative “clean-ups,” the TPA changes proposed by UES go beyond those areas.<sup>25</sup> In particular, UES has proposed changes to Sections IV and VI of the TPA that are unrelated to POR and that are not of a housekeeping nature.<sup>26</sup>

CEPS and other key stakeholders would not and could not anticipate that these types of changes would be proposed (or considered) in a proceeding to approve a proposed POR program. Moreover, not all of those stakeholders have been provided notice that these types of

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<sup>22</sup> UES Proposed POR Program, Exhibit CJGSED-1, at 11.

<sup>23</sup> See NSTAR Electric Company d/b/a Eversource Energy Eastern Massachusetts Terms and Conditions – Competitive Suppliers and Competitive REA Suppliers (available at: [https://www.eversource.com/content/docs/default-source/rates-tariffs/ma-electric/4.pdf?sfvrsn=e4c82c1d\\_7](https://www.eversource.com/content/docs/default-source/rates-tariffs/ma-electric/4.pdf?sfvrsn=e4c82c1d_7)), at 15.

<sup>24</sup> DOE 1-8, Attachment 2 at Attachment NRG-2.

<sup>25</sup> See *id.*

<sup>26</sup> See *id.* at 5-8, 10-14.

changes would be proposed.<sup>27</sup> For example, neither the proposed UES POR program nor the Notice indicate that such changes will be considered as part of this proceeding.<sup>28</sup> Moreover, UES did not consult or otherwise notify CEPS of the proposed changes.<sup>29</sup> As a result, many stakeholders, who otherwise would be interested in and want to provide input on the proposed changes, still do not have a seat at the table. In fact, besides the NRG Retail Companies, no other CEPS is participating in this proceeding.<sup>30</sup>

An important hallmark of a well-functioning market is full transparency and disclosure of proposed changes to the market rules and operational protocols under which participants in that market operate. To do otherwise, fails to provide entities that will be directly impacted by proposed changes an opportunity to explain how those changes may impact their customers, operations and/or the competitive market for electricity. Thus, because inadequate notice has been provided that such changes would be considered as part of this proceeding, the NRG Retail Companies request that the Commission prohibit UES from making substantive changes to the TPA in this proceeding beyond those necessary to implement POR.<sup>31</sup>

#### **IV. THE NEW HAMPSHIRE EDI STANDARDS SHOULD BE UPDATED TO INCORPORATE THE CHANGES NECESSARY TO IMPLEMENT POR**

UES is proposing to process EDI transactions pursuant “to the rules and procedures documented and maintained by the *Massachusetts* Electronic Business Transaction (EBT)

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<sup>27</sup> See generally, Record.

<sup>28</sup> See generally, Notice; UES Proposed POR Program.

<sup>29</sup> See NRG 1-4 at Attachment NRG-3.

<sup>30</sup> See generally, Record.

<sup>31</sup> Cf. Order No. 25,866 (Feb. 12, 2016), at 17 (“We therefore hold that Northern had inadequate notice that these additional alleged violations might be the subject of our hearings. Accordingly, we decline to consider the alleged violations at this time.”).

Working Group.”<sup>32</sup> However, New Hampshire has established its own EDI standards and procedures<sup>33</sup> that represent “a standard set of data transactions used by electric distribution companies and CEPS to send and receive data.”<sup>34</sup> The New Hampshire EDI standards include a change control process to be used to modify those standards “to accommodate market or regulatory requirements on an ongoing basis.”<sup>35</sup> Despite this, because “the EDI Working Group in New Hampshire does not appear to be active, and has not been active for some time,” UES proposes reverting to the EBT standards of another state without even attempting to initiate the change control process.<sup>36</sup>

Moreover, UES again did not provide notice of this proposal to CEPS. As a consequence, those directly affected by UES’ proposed changes to the manner and method by which EDI transactions are processed have not been provided notice of those changes in contravention of the New Hampshire change control process.<sup>37</sup> In fact, even though it is an intervenor in this proceeding, the NRG Retail Companies only became aware of the proposal to use the Massachusetts EBT standards as a result of UES’ responses to data requests.

To ensure consistency across EDU service territories,<sup>38</sup> the NRG Retail Companies request that the Commission reject UES’ proposal to adopt the Massachusetts EBT Standards as part of this proceeding, reconstitute the New Hampshire EDI Working Group, and require UES to complete the appropriate change control process and related protocols germane to the State of

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<sup>32</sup> See CPCNH 1-21(a) at Attachment NRG-4 (emphasis added); see also CPCNH 1-21(b) (“The Company operates the FGE POR program under the EBT Standards and anticipates using those same rules and procedures in New Hampshire.”).

<sup>33</sup> See <https://www.puc.nh.gov/electric/edi.htm>.

<sup>34</sup> Puc 2002.14.

<sup>35</sup> EDI Training Guide, Part 1, at 1.

<sup>36</sup> CPCNH 1-21(b) at Attachment NRG-4.

<sup>37</sup> See EDI Training Guide, Part 1, at 3 (requiring notice, even for Emergency Priority changes, to CEPS).

<sup>38</sup> Cf Puc 2002.14 (defining EDI as “a *standard* set of data transactions used by electric distribution companies and CEPS to send and receive data”) (emphasis added).



New Hampshire. Because UES will require “up to four months” to implement the POR program once the program is approved by the Commission,<sup>39</sup> requiring UES to abide by the New Hampshire EDI change control process should not delay implementation.<sup>40</sup>

### **CONCLUSION**

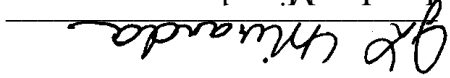
For all the foregoing reasons, when approving the proposed UES POR program, the NRG Retail Companies request that the Commission order UES to: (a) modify its proposed schedule for payment to CEPS; (b) limit the substantive changes to its TPA to those necessary to implement POR; and (c) require UES to follow the EDI change control process to implement modifications to the EDI standards to accommodate POR.

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<sup>39</sup> UES Proposed POR Program, Exhibit CJGSED-1, at 12-13.

<sup>40</sup> See EDI Training Guide, Part 1, at 2-3 (establishing three priority classifications for changes to the EDI standards with timeframes for implementation ranging from 10-90 days).

Dated: June 9, 2023

  
Joey Lee Miranda

or first-class mail to all persons on the service list.

I hereby certify that a copy of these Comments has this day been sent via electronic mail

**CERTIFICATE OF SERVICE**