

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 23-004

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE d/b/a EVERSOURCE ENERGY

Proposed Purchase of Receivables Program

**Hearing Examiner Report of Sarah Fuller, Esq. Senior Advisor, New Hampshire
Public Utilities Commission**

This Hearing Examiner Report is filed pursuant to my appointment, under the terms of RSA 363:17, as examiner by the Commission to hear the parties, report the facts, and make recommendations to the Commission. This appointment was presented in the August 29, 2024 supplemental order of notice issued by the Commission.

I. BACKGROUND OF PETITION AND OVERVIEW OF PHASE II PROCEEDING

Pursuant to RSA 53-E:9 and N.H. Code Admin. R. Puc chapter 2200, Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource or the Company) filed its proposal for implementation of its purchase of receivables (POR) program on January 10, 2023. Subsequently, the Commission commenced an adjudicatory proceeding in this matter. The parties to this matter are Eversource; the New Hampshire Department of Energy (DOE); the Community Power Coalition of New Hampshire (CPCNH); and Direct Energy Services, LLC, Direct Energy Business, LLC, Direct Energy Business Marketing, LLC, Reliant Energy Northeast LLC, and XOOM Energy New Hampshire, LLC (together, the NRG Retail Companies).

The parties entered into a Settlement Agreement regarding the POR program. The Settlement Agreement was approved by the Commission on August 22, 2024. *See* Order No. 27,049. Pursuant to Order No. 27,049, the proceeding was continued to a second phase to consider the Company's proposed revisions to its "Electric Supplier Services Master Agreement" (ESSMA) and Eversource's "Tariff NHPUC No. 10 – Electricity" (Tariff)

On September 23, 2024, Eversource filed its proposed ESSMA and Tariff along with the technical Statement of Brendan J. O'Brien, Scott R. Anderson, and Daryush Donyavi. In response to the proposed ESSMA and Tariff, CPCNH, the DOE, and NRG Retail Companies filed comments. The parties requested additional time to reach a consensus on the ESSMA and Tariff. *See* October 16, 2024 Eversource's Motion to Continue. On December 16, 2024, Eversource filed a revised ESSMA and Tariff and indicated that all parties agreed to the revisions. The parties presented for final hearing on the proposed revised ESSMA and Tariff on January 29, 2025.

All docket filings, other than any information subject to confidential treatment, are available on the Commission's website at <https://www.puc.nh.gov/regulatory/Docketbk/2023/23-004.html>.

II. SUMMARY OF THE PROPOSED ESSMA AND TARIFF REVISIONS

a. ESSMA

As discussed in Order No. 27,049, prior to implementation of the POR program, Eversource's ESSMA for competitive electric power suppliers (CEPS) and community power aggregators (CPAs) acting as load-serving entities needed to be revised. The revisions were necessary to incorporate the POR program as a condition of consolidated billing services. *See* September 23, 2024 Technical Statement at 1. Specifically, an entity seeking consolidated billing services must agree to sell Eversource its receivables at the applicable Discount Percentage Rate (DPR). The Tariff must also be revised to reflect the DPR. The ESSMA is applicable to both CEPs and CPAs acting as load-serving entities in ISO New England. *See Id* at 3. There are 24 unique suppliers providing energy service to Eversource customers. *See* Hearing Transcript at 17. Eversource anticipates that prior to the implementation of POR it must receive signed ESSMA from the 24 unique suppliers and these unique suppliers cover 87 aggregations that Eversource's services. *See Id*.

Updates to the ESSMA include:

- 1) Amending Section II to include new definitions related to the POR program and the required security interest.
- 2) Amending Section IV to include provisions which:
 - a. acknowledge different treatment of CPAs in appropriate circumstances, consistent with the Puc 2200 rules;
 - b. apply a creditworthiness requirement and obligation to provide credit support in certain cases; and
 - c. require suppliers with customer accounts served using consolidated billing to grant the Company a security interest.
- 3) Amending Section V to include representations and warranties of the supplier covering the Accounts Receivable and Collateral (as that term is defined in Section VI), including ownership and status of those assets.
- 4) Amending Section VI to require the supplier to provide the Company with a first priority perfected security interest in all Accounts Receivable purchased by the Company under the ESSMA and all unbilled Accounts Receivable to be purchased by the Company under the ESSMA (defined as the "Collateral"). And the supplier is authorized to place a security interest on the Accounts Receivable from the Company to the supplier associated with the Company's purchase of the supplier's Accounts Receivable.
- 5) Amend Section VII A-F to include specific provisions referencing the transition to the POR program, excepting CPAs from certain provisions that are not applicable under the Puc 2200 rules, and expressly referencing compliance obligations regarding protection and limited use of customer information under RSA 363:37-38.
- 6) Amend Section VII G to include new provisions specifically covering the POR program. Those provisions address the purchase and sale of existing and future Accounts Receivable, transfer of ownership, assignments of rights, security interest and collateral status, and collection and remittance of funds provisions. This subsection also covers the timing of payments made to suppliers for Accounts Receivable, and the means of payment to suppliers. Payments are subject to mutual netting provisions and supplier statements and reports will be provided through EDI transactions. And suppliers are required, upon the Company's request to provide documentation and information regarding any Accounts Receivable sold to the Company to the extent necessary to verify billing information and/or collect from a customer any charges associated with that Account Receivable.
- 7) Various minor amendments and revisions related to POR program implementation, clarify the status of CPAs in certain circumstances, and clarify the language of specific contractual provisions.

See Technical Statement at 2. Mr. O'Brien and Mr. Donyavi testified that prior to implementing the POR program, Eversource will request suppliers to return signed updated ESSMA agreements. See Id at 3. Eversource plans for a May 1, 2025 implementation as long as Eversource's system modifications necessary to implement the program have been completed, tested, and are fully operational. See Hearing Transcript at 14.

b. Tariff

Tariff updates include:

- 1) Section 1 contains references to the role of the New Hampshire Department of Energy ("NHDOE") in registering competitive electric power suppliers, and it clarifies that suppliers must be an ISO New England "Market Participant with an ISO-NE settlement account and take responsibility for all the ISO-NE load asset obligations, including but not limited to losses and uplift costs, associated with supplying energy and capacity to the Customer's delivery point."
- 2) Sections 1-8 contain provisions referencing the new POR program, the regulatory role of the NHDOE as well as the Commission, and the different treatment of CPAs under relevant sections of the Puc 2200 rules.
- 3) Section 9(a)-(c) contains the detailed provisions regarding implementation and administration of the POR program, including program eligibility, billing procedures and related EDI transaction procedures and information sharing, and the timing of payment by the Company to the supplier for Accounts Receivable.
- 4) Section 9(d) contains the detailed provisions for determination of the DPR on an initial and annually adjusted basis, and reflects the agreed-upon terms of the Settlement Agreement approved in Order No. 27,049.
- 5) Section 9(e) provides for the filing of supporting documentation by the Company in connection with the annual adjustment of the DPR and related aspects of the POR program, which will now be effective on August 1 of each year rather than May 1, consistent with the Commission's directive in Order No. 27,049.
- 6) Section 9(f) addresses the initial implementation of the POR program, which will now be no sooner than May 1, 2025, subject to the condition that all Eversource system modifications necessary to implement the program have been completed, tested, and are fully operational. This subsection also provides for the Company's purchase of suppliers' existing Accounts Receivable within 30 days following the initial implementation date of the POR program. This subsection further references the first priority perfected security interest in the Accounts Receivable that the Company will purchase through the POR program,

including any such Accounts Receivable that have not yet been billed, as well as the authorization of a participating supplier to place a security interest on the accounts receivable from the Company to such supplier associated with the Company's purchase of its Accounts Receivable.

See Hearing Exhibit 6 at 3-4, 14-22.

III. PROPOSED IMPLEMENTATION

The DPR is the sum of four percentage calculations, or components. Some of the discounted amounts are retained to recover implementation and ongoing administrative costs, which is reflected in the Administrative Cost Percentage (ACP) calculation. Other portions of the amounts retained reflect the fact that an Energy Service receivable is not worth its full face value, as Eversource will not recover the full amounts from customers on average (*i.e.*, uncollectible), which is reflected in the Uncollectible Percentage (UP) component of the DPR. As the DPR is the product of a fully-reconciling cost recovery mechanism, a portion of the discounted amount will also reflect a true-up of the costs and write offs resulting from POR with discounted amounts previously taken, which is reflected in the Past Period Reconciliation Percentage (PPRP). As a reconciling factor, the PPRP may increase or decrease the DPR. Lastly, the DPR considers the Company's cumulative revenue requirement calculation for the return of and return on incremental capital costs directly related to the development and implementation of changes to billing, information, and accounting systems required to implement the billing and payment procedures related to the POR program into the Company's consolidated billing service, to be amortized and recovered through the annual DPR over a five-year period, which is reflected in the Amortized Incremental Capital Expense (AICE). Thus, the costs of the POR Program will be fully born by suppliers and will not impact customers remaining on Eversource's default supply service. Eversource proposes to calculate and file by late February or early

March 2025 an initial DPR to be applied to receivables purchased when the POR program launches. See Hearing transcript at 14.

The proposed implementation has been defined as follows in the Tariff:

Implementation of POR Program

The effective date of the Company's POR program shall be the later to occur of either (i) May 1, 2025, or (ii) the first day of the month following notice by the Company to the Commission that all system modifications necessary to implement the POR program have been completed, tested, and are fully operational.

Pursuant to the terms and conditions of the Electric Supplier Services Master Agreement with a Participating Supplier, the Company shall pay the Supplier for amounts already existing as outstanding accounts receivables of the Supplier, within thirty (30) days following the initial implementation date of the Company's POR program. The amounts payable for purchase of such existing accounts receivables shall be subject to the DPRcc as calculated by the Company pursuant to subsection 9(d) above, and shall be subject to full reconciliation in accordance with the PPRPcc provisions in subsection 9(d)(1)(ii) above.

Pursuant to the terms and conditions of the Electric Supplier Services Master Agreement with a Participating Supplier, the Supplier shall grant to the Company a first priority perfected security interest in and to the accounts receivable that the Company will be purchasing through its POR program, including any such accounts receivable that have not yet been billed. A Participating Supplier shall be authorized by the Company to place a security interest on the accounts receivable from the Company to the Participating Supplier associated with the purchase by the Company of the Participating Supplier's accounts receivable.

See Hearing Exhibit 6 at 21.

Mr. O'Brien testified that Eversource expects to file its initial DPR calculation in late winter/early spring 2025 and would seek for approval of the DPR rate 30-60 days later. See Hearing transcript at 14. Eversource was looking at May 1st as the implementation date for the POR program.¹ The implementation timeline assumes that all Supplier agreements have been signed and returned. Furthermore, even if Eversource does not have the returned, signed Supplier agreement, Mr. Donyavi

¹ Eversource has requested that the revised Tariff and ESSMA be approved by 2/21/2025

confirmed that POR will be implemented uniformly for all suppliers that have a complete load of customers. *See Id.*

Eversource noted that the calculation of the May 1, 2025 implementation date was contingent on the Company working through all the necessary system updates and items that require to implement the POR program in NH.

IV. HEARING EXAMINER'S RECOMMENDATIONS TO THE COMMISSION

The Commission has previously approved the formula necessary to calculate the DPR. *See Order No. 27,049.* In order to implement the DPR, updates to the ESSMA and Tariff are necessary. The Company's initial proposal for its revised ESSMA and Tariff was met with general support from the parties; however, universal agreement was not reached until December 2024. *See Eversource's October 16, 2024 Motion to Continue, Eversource's November 22, 2024 Status Report and Eversource's December 16, 2024 submission of its revised agreements with cover letter indicating all parties agreed to the proposed language.*

The ESSMA is designed to outline the terms and conditions between the Company and its Suppliers. In this case, the updates needed surround the implementation of the POR program. Having reviewed the revised ESSMA and Tariff, I find that the documents enable Eversource to begin implementation of the POR program as outlined via Order No. 27,049. Eversource's implementation plan provides sufficient framework to effectuate the POR program. I RECOMMEND approval of the revised ESSMA and Tariff based on the agreement of all parties and the compelling testimony of the Eversource witnesses. Furthermore, I recommend that the Commission require Eversource to confirm the dates for both submission of its initial DPR rate to the Commission and for implementation of the POR program, given the

slight delay in insurance of this hearing examiner report², with dates certain upon receiving the order approving the proposed revisions. Finally, as discussed at hearing, upon final submission for approval, the Tariff shall be updated to remove the references to the New England Power Pool (NEPOOL) and replace those terms with Independent System Operator of New England (ISO-NE).

Hereby Submitted, March 7, 2025:



Sarah F. Fuller, Esq.
Senior Advisor

² At the January 29, 2025 hearing, Eversource requested final approval by the Commission on the proposed updates to the Tariff and ESSMA by February 21, 2025. Given that the approval is occurring slightly after the requested date, the Commission requests that Eversource confirm that the May 1, 2025 implementation date is still applicable.

Service List - Docket Related

Docket#: 23-004

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