

STATE OF NEW HAMPSHIRE  
Before the  
PUBLIC UTILITIES COMMISSION

Docket Nos.

DE 23-022 Town of Jaffrey

DE 23-023 Town of New Boston

DE 23-029 Town of Milford

Public Service Company of New Hampshire d/b/a Eversource Energy  
Request for Approval of Community Power Electric Aggregation Plan

Motion for Expedited Orders on  
RSA 53-E Complaints

NOW COMES the Office of the Consumer Advocate, and pursuant to RSA 53-E:7, X, N.H. Code Admin Rules Puc 2205.12, and Commission Procedural Orders dated February 14, 2024, in each of the above-captioned dockets, requests the Commission commence adjudicative proceedings and, in the interim, enter an emergency order suspending the Community Aggregation Plans in the towns of Jaffrey, Milford, and New Boston. We seek this relief because the towns are out of compliance with the terms of their respective Community Power Plans as approved by the Commission – and, as a result, thousands of customers are about to see an increase in their energy rate of more than two cents per kilowatt-hour unnecessarily and unlawfully.

Each town is in the franchised service territory of Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource”) and intends to begin providing retail electricity on an opt-out basis as of March 1, 2024, at a “basic rate”

of 10.568 cents per kilowatt-hour, which is higher than the Eversource default service rate of 8.285 cents. In each instance, the Commission-approved aggregation plan states that the municipality will not launch its program by offering a basic rate in excess of the then applicable default energy service rate. The OCA states the following in support of its pleading:

**I. Facts and Circumstances**

On February 13, 2024, the Office of the Consumer Advocate filed a formal complaint with both the Commission and the Department pursuant to RSA 53-E:7, X, and Puc 2205.12. The OCA's complaint states that the towns of Jaffrey, New Boston, and Milford are out of compliance with the terms of their respective Community Power Plans in Docket Nos. DE 23-022 (Jaffrey), DE 23-023 (New Boston), and DE 23-029 (Milford). The towns are each offering a "basic rate" of 10.568 cents per kilowatt-hour, which is higher than Eversource's default service rate of 8.285 cents.

On February 13, 2024, the Department issued its letter to each of the respective towns stating that the Department had accepted the OCA's complaints and had assigned it docket numbers CPT 2024-001 (Jaffrey), CPT 2024-002 (New Boston), and CPT 2024-003 (Milford). The Department set February 23, 2024, as the deadline for each town to provide a response.

On February 22, 2024, the town of Jaffrey responded to the OCA's complaint. On February 23, 2024, the towns of New Boston and Milford responded to the OCA's complaint. Each of the towns respond by stating that it is compliant with the

terms of its Community Power Plan and intends to proceed as scheduled. Further, each town states that the OCA has mischaracterized, or has taken out of context, each of the town's Community Power Plans, and the information each town provides.<sup>1</sup>

## **II. Reasons to Support Suspension and Commence Adjudicative Proceedings**

Each of the towns has a March 1, 2024, Community Power launch date and if allowed to launch, each of the customers subscribed to the Community Power Plan's "basic rate" will pay approximately 2 cents per kilowatt-hour more than the default service rate offered by Eversource contrary to the express terms of the Community Power Plan. Since customers are opted-into the Community Power Plan by default, it would be grossly unfair for customers to be forced to pay an energy service rate higher than default energy service.

### **A. The Town of Jaffrey**

The Jaffrey Community Power Plan expressly provides that "[a]t minimum, no bid will be accepted at a price higher than the utility default rate at the time of program launch, but the Town may specific stricter criteria." Jaffrey Community Power Plan (Docket No. DE 23-022, tab 1), at 11. The Jaffrey Community Power Plan also specifies that "the Town will reject all bids and repeat the solicitation for bids as often as needed until market conditions yield a bid that is acceptable." *Id.* Presently, the default service price offered by Eversource is 8.285 cents per kilowatt-hour whereas the "Jaffrey Basic" price offered by the Jaffrey Community

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<sup>1</sup> A copy of each complaint response is appended hereto for reference.

Power Plan is 10.568 cents per kilowatt-hour.<sup>2</sup> Therefore, the town of Jaffrey is not meeting the express terms of its Community Power Plan.

The town of Jaffrey responds to the OCA's formal complaint by stating it launched its Community Power program on October 4, 2023, when it entered into its Electric Service Agreement ("ESA"). Town of Jaffrey Response, at 1. However, the town of Jaffrey's community power web site, as of January 10, 2024, expressly states that the Community Power for Jaffrey will launch in March 2024, an update provided two months after the ESA.<sup>3</sup> Further, the town of Jaffrey's response includes an "Opt-In" notification stating that the Jaffrey program starts in March 2024. Town of Jaffrey Response, at 3. Additionally, when the town of Jaffrey states that program launch is a "process" that begins with the ESA, such a statement is contradicted by the town of Jaffrey's own timeline stating program launch happens after the ESA is signed.<sup>4</sup> Town of Jaffrey Response, at 1. Therefore, the town of Jaffrey's response to the OCA's complaint is inconsistent and attempts to stretch the definition of program launch it otherwise has stated.

Further, the town of Jaffrey claims that the OCA has mischaracterized the Community Power Flyer posted on the town's website because it is only limited to the rates offered through Jaffrey's Community Power Plan. Town of Jaffrey Response, at 2. However, no such limiting words exist, and to the contrary, the

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<sup>2</sup> <https://www.energy.nh.gov/engyapps/ceps/SmallCommercialCompare.aspx?choice=Eversource>

<sup>3</sup> <https://www.townofjaffrey.com/community-power>

<sup>4</sup> [https://www.townofjaffrey.com/sites/g/files/vyhlf4561/f/uploads/jaffrey\\_launch\\_slides\\_1.25.24\\_v.1.pdf](https://www.townofjaffrey.com/sites/g/files/vyhlf4561/f/uploads/jaffrey_launch_slides_1.25.24_v.1.pdf) at slide 13.

plain language of the flyer states that the “basic option” offered is the “best price possible”.<sup>5</sup> The flyer states: “Does Community Power Offer the Lowest Cost Energy Choice? Yes. A ‘Basic’ option offers the best price possible while meeting all state requirements.”<sup>6</sup> Therefore, when the town of Jaffrey claims the quoted statement is expressly limited to the rates offered within the Jaffrey Community Power Plan is simply untrue. Town of Jaffrey Response, at 2.

### **B. Town of New Boston**

The New Boston Community Power Plan expressly provides that “[t]he program will not launch without savings for eligible customers.” New Boston Community Power Plan (Docket No. DE 23-023, tab 1) at Exhibit 1, Page 2. Like the town of Jaffrey, the town of New Boston is providing the same rate of 10.568 cents per kilowatt-hour that is higher than the 8.285 cents per kilowatt offered by Eversource’s default service.<sup>7</sup> The town of New Boston justifies its higher rate by stating in its response that the 10.568 cents is better than what Eversource offered in October 2023, at 12.582 cents per kilowatt-hour. Town of New Boston Response at 1. However, such an assertion does not refute the March 2024 Community Power launch which means that customers are not receiving savings because New Boston Community Power customers are paying approximately 2 cents per kilowatt-hour more than Eversource’s default service. Further, the town of New Boston timeline

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<sup>5</sup> [https://www.townofjaffrey.com/sites/g/files/vyhlif4561/f/uploads/jaffrey\\_cp\\_flyer.pdf](https://www.townofjaffrey.com/sites/g/files/vyhlif4561/f/uploads/jaffrey_cp_flyer.pdf) at page 2.

<sup>6</sup> [https://www.townofjaffrey.com/sites/g/files/vyhlif4561/f/uploads/jaffrey\\_cp\\_flyer.pdf](https://www.townofjaffrey.com/sites/g/files/vyhlif4561/f/uploads/jaffrey_cp_flyer.pdf)

<sup>7</sup> <https://www.energy.nh.gov/engyapps/ceps/SmallCommercialCompare.aspx?choice=Eversource>

shows that program launch happens after the ESA is signed.<sup>8</sup> Therefore, the town of New Boston has entered into an ESA that does not provide savings for customers at the time of program launch.

With respect to the town of New Boston's claim that the OCA has mischaracterized the "FAQ" posted on its community power website about the "best price possible", OCA has merely relied upon the plain language of the flyer.<sup>9</sup> There is no language in the FAQ that limits the "best price possible" to only the options offered under the Community Power Plan as the town of New Boston asserts. *Id.* Therefore, because customers are paying approximately two cents more per kilowatt-hour using the "basic option" than default service provided by Eversource, customers are certainly not getting the best price possible.

### **C. Town of Milford**

The Milford Community Power plan offers the same basic rate of 10.568 cents per kilowatt-hour that the towns of Jaffrey and New Boston offer. This rate expressly violates the express terms of its Commission-approved Community Power Plan. Milford Community Power Plan (Docket DE 23-029, tab 1) at Exhibit 1, page 2 of 3. Specifically, Milford's Community Power Plan provides in plain terms via its attachment stating: "the program does not launch unless the program default is lower than the utility default rate." *Id.*

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[https://www.newbostonnh.gov/sites/g/files/vyhlif4756/f/uploads/new\\_boston\\_cpac\\_slideshow\\_01.26.2023.pdf](https://www.newbostonnh.gov/sites/g/files/vyhlif4756/f/uploads/new_boston_cpac_slideshow_01.26.2023.pdf) at slide 14.

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[https://www.newbostonnh.gov/sites/g/files/vyhlif4756/f/uploads/cp\\_info\\_and\\_faq\\_new\\_boston\\_2022.pdf](https://www.newbostonnh.gov/sites/g/files/vyhlif4756/f/uploads/cp_info_and_faq_new_boston_2022.pdf) at 2.

Milford's program launch is March 2024, and the town of Milford does not dispute this but rather states the difficulties the town faced in preparation to launch its Community Power Plan.<sup>10</sup> Town of Milford Response, at 1-2. These difficulties notwithstanding, it is ineluctably true that the Town of Milford has not met the express terms of its Community Power Plan.

With respect to the circulated information via its FAQ, the town of Milford has alleged the OCA has mischaracterized the information it provided. Town of Milford Response at 2. However, as discussed above with respect to the towns of Jaffrey and New Boston, the OCA has simply stated what the plain language of the FAQ states.<sup>11</sup> Therefore, the town of Milford mistakenly represents what is actually stated in its allegations against the OCA.

### **III. Conclusion**

The Office of the Consumer Advocate has reached out to Eversource and learned that the supplier with which each town has contracted is in the process of conducting the necessary EDI testing (i.e., testing Electronic Data Interchange process by which customers will migrate from Eversource Default Energy Service to the towns' aggregation programs) and that, as soon as the testing is completed the process of actually switching customers will commence. Thus, the need for urgent action to prevent customers from suffering real financial harm from being switched to an aggregation program being conducted unlawfully. Therefore, the Commission

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<sup>10</sup> <https://www.milford.nh.gov/community-power>

<sup>11</sup> <https://drive.google.com/file/d/148rFV77QrnLenV7ZKe3BkNMPHIPDgbtd/view>

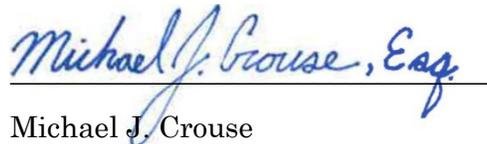
should act as expeditiously as possible to prevent irreparable harm; once service is provided at the higher rate, it cannot be un-provided and un-billed, and reversing the EDI process will be completed. After the irreparable harm has been thwarted, there will be ample time for the Commission to provide the notice and hearing that is typical of the adjudicative process conducted by the agency.

WHEREFORE, the OCA respectfully requests that this honorable Commission:

- A. Immediately suspend the community aggregation plans of the towns of Jaffrey, New Boston, and Milford, and
- B. Commence an adjudicative proceeding for each of the three town's respective dockets, and
- C. Grant such further relief as shall be necessary and proper in the circumstances.

Dated February 23, 2024

Respectfully submitted,



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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of this pleading was provided via electronic mail to the individuals included on the Commission's service list for this docket along with the Department of Energy, and the attorneys who filed their complaint responses.

  
Michael J. Crouse