

STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

DOCKET NO. DE 23-063

Public Service Company of New Hampshire d/b/a Eversource Energy, Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty and Unitil Energy Systems, Inc.

Joint Utilities' Petition for Waiver of Certain Provisions of the Puc 2200 Rules

JOINT PARTIES MOTION FOR A SUPPLEMENTAL ORDER OF NOTICE, TESTIMONY,
AND PRE-HEARING CONFERENCE, AND TO GRANT ADDITIONAL TEMPORARY
WAIVERS TO EVERSOURCE, UNITIL, AND LIBERTY UTILITIES

The Community Power Coalition of New Hampshire (“CPCNH” or “the Coalition”) and Conservation Law Foundation (together, the “Joint Parties”) submit this joint motion to the New Hampshire Public Utilities Commission (the “Commission”) pursuant to Puc 203.07 requesting that the Commission issue a supplemental order of notice confirming the scope of the instant proceeding, invite testimony from interested parties on these matters, schedule a prehearing conference, and grant additional temporary waivers to Eversource, Unitil, and Liberty (the “Investor-Owned Utilities” or “IOUs”) necessitated by their noncompliance with the NH EDI Standards, various Puc 2200 rules, and their own distribution service tariffs and supplier agreements. In support of this joint motion, the Joint Parties state the following:

1. Competitive choice in New Hampshire is currently limited to only certain electricity supply rate offerings. Competitive innovative rate offerings by Community Power Aggregations (CPAs) and Competitive Electric Power Suppliers (CEPS) have the potential to help NH reduce overall costs to electricity customers through greater demand flexibility, particularly as customers increase their reliance on electricity for home and business heating and transportation needs. Price signals to incentivize demand flexibility will have the added benefits of ensuring an efficient and reliable electricity system.

As more customers adopt beneficial electrification technologies, competitive innovative rate offerings will become an invaluable tool to help NH manage the use of electricity through price signals.

2. For CPAs and CEPS, the preferred option is to offer competitive rates through a consolidated bill. In order of efficiency and lowest hurdle to competition, a rate-ready consolidated bill that can present and calculate CPA and CEPS non-standard supply rates is preferred; followed by a bill-ready consolidated bill option, where the CPA and CEPS use their computer systems to calculate the charge and credit and supply them to the electric distribution utility to present on the bill; and lastly, the use of dual billing, where the CPA or CEPS calculates the charges and credits and separately bills the customer for those charges. Each level of reduced efficiency removes a task that the EDU needs to perform, whereas dual billing removes the calculation and billing obligations for these supply rates from the EDUs entirely.

3. Recent discussions in the EDI / EBT Working Group have clarified and confirmed that only the New Hampshire Electric Co-op (“NHEC”) implemented the NH EDI Standards that the Commission ordered implemented in Order No. 22,919. Eversource, Unitil, and Liberty implemented the EDI requirements of Massachusetts rather than the NH EDI requirements. This is contrary to the distribution service tariffs and supplier service agreements of the IOUs, which represent that EDI transactions will be performed in accordance with NH EDI Standards.

4. The differences are profound, most notably in foreclosing competitive choice for time-of-use (TOU) and net metering (NM) customers. The NH EDI Standards require utility EDI systems to support prompt provision to the customer’s supplier, on a monthly billing cycle basis, with various customer

usage and account data, including 2-part and 3-part TOU usage data,¹ NM usage data inclusive of negative usage data (excess generation exported to the distribution grid),² and distribution tariff rates for each customer.³ Only NHEC's EDI system has been appropriately configured to support these requirements, which provide the data for CPAs and CEPS to dual bill TOU and NM customers in NHEC's service territory. In contrast, the IOUs have implemented a nonstandard selection of these requirements — for example, only Unitil's EDI system provides NM export data and only Eversource's EDI system provides usage data by TOU interval — with the consequence that CPAs and CEPS cannot reliably provide customers with TOU rates or credits for NM excess generation on a dual billing basis in IOU territories. The Joint Parties observe that this is also contrary to the IOUs' distribution tariffs and supplier service agreements, which obligate each utility to provide suppliers with usage data to enable dual billing for customers in accordance with the NH EDI Standards, and none of which provide exceptions allowing the utility to withhold the usage data that the utility possesses that is required for suppliers to calculate supply charges by TOU period and/or credit NM customers for negative usage.⁴ This reflects the NH EDI Standards' requirement that dual billing service, referred to at the time as

¹ See detailed discussion at pp. 10-13 in Clifton Below's testimony in DE 23-039 and Attachments 2-4 at pp. 26-32 linked to in footnote 13, and [EDI Working Group Report](#) at 30 that provides: "The EDI format we plan to implement will use existing American National Standards Institute (ANSI) ASC X12 transactions which will be tailored for use in the exchange of information between Distribution Companies and Competitive Suppliers. This will be accomplished by "mapping" the fields defined in Appendix D of this report to the appropriate segments of the established EDI transaction sets." Then see [Appendix D](#), EDI Data Formats, at p. D-3, line 9; p. D-13, lines 9, 13, 16, 19, 27, 28, and 29; p. D-15, lines 13, 16, and 19; and Page D-17, lines 9, 13, 16, 19, 27, 28, and 29.

² See EDI Working Group Report, "[867 Product Transfer and Resale Report](#)" which is now known as the 867HU or historical usage data file, at p. 9 where the fields for "MEA Measurements" of kWh are specified as MEA05 (for negative measurements) and MEA06 (for positive measurements) to the exclusion of MEA03 which can otherwise be used when the kWh measurement can be assumed to always be positive.

³ *Id* for "Distribution Co. rate code" and "Type of Service Indicator" at pp. D-4, lines 7 and 10; D-5, lines 7 and 10; D-6 lines 7 and 10; and D-9, lines 7 and 10. See also pp. 15 and 22 in "814 Account Administration."

⁴ See variously: [Eversource Electric Supplier Master Services Agreement](#), Sections I and VII.A.1; [Eversource Terms and Conditions for Suppliers](#), Section 2(a); [Unitil Terms and Conditions for Competitive Suppliers](#), Sections I.2.I, II.2.14, and III.6.A.2; [Unitil Competitive Electric Supplier Trading Partner Agreement](#), Sections I and VII.A.ii; [Liberty Utilities Terms and Conditions for Competitive Suppliers](#), Sections 62.ii, 62.iii.1.n, and 62.iv.5.c; and [Liberty Competitive Energy Supplier Service Agreement](#), Sections II, VI.B.1 and VI.D.

standard billing service, “*requires the Distribution Company to electronically transfer to a Customer’s authorized Competitive Supplier the Customer’s usage data within twenty four (24) hours of the Distribution Company’s issuing a bill to that Customer... After receiving the data, the Competitive Supplier can issue a separate bill for energy services provided.*”⁵ No exception is made permitting utilities to withhold certain types of usage data in their possession, such as usage data by time-of-use interval or negative usage data for NM customers’ excess generation. Indeed, the express intent is for utilities to provide suppliers with the usage data needed to issue separate bills for supply service. Furthermore, CPAs and CEPS are unable to provide time-of-use rates or credits for net-metered excess generation on a rate-ready consolidated billing basis, as the IOUs have not followed the NH EDI Standards’ general requirement that utility billing systems should support the same range of product options for utility default supply customers and rate-ready consolidated billing customers served by CPAs and CEPS.⁶ Instead, the IOUs only accept flat, volumetric kWh rates from CPAs and CEPS for use in rate-ready consolidated billing. As such, IOU withholding of time-of-use and net-metering billing determinants and non-provision of billing services has the practical consequence of severely limiting customer choice for TOU and NM customers — in that, in exchange for electing competitive supply, practically all NM customers must forego any monetary compensation for their excess supply, and practically all TOU customers must revert to non-time-varying supply pricing — and, *ipso facto*, foreclosing CPAs and CEPS from offering innovative rates and products to the customers that have interest and are asking for service innovations.

5. Unfortunately, the IOUs neglected to disclose these facts during the Puc 2200 rulemaking process. The Puc 2200 rules were adopted based on the Commission’s underlying assumption that the

⁵ NH EBT Working Group Consensus Plan, pp. 18-19. www.puc.nh.gov/electric/EDI/edirev53.pdf.

⁶ Refer to #6 below for relevant quotations from the NH EDI Standards.

IOUs were generally operating in compliance with the requirements of the NH EDI Standards, and that CPAs would be able to serve TOU and NM customers on a dual-billing basis and more efficiently with cost effective upgrades being necessary over the normal course of business, on a consolidated billing basis. None of the IOUs disclosed that they had not implemented New Hampshire’s EDI requirements during the Puc 2200 rulemaking process — nor, to the Joint Parties’ knowledge, was this ever disclosed during the multi-year, informal rule development process that preceded the formal rulemaking — and the Commission itself, in November 2022, one month after adopting the Puc 2200 rules, noted that it “believed that for the past twenty-four years EDI systems have operated under the original, interim standards”⁷ implemented by Order No. 22,919.

6. Indeed, while CPCNH, OCA and CENH raised concerns during the Puc 2200 rulemaking regarding the extent of the IOUs compliance with NH EDI Standards, these were limited to observing that utility tariffs and supplier agreements fell short of fully enabling suppliers to add new products and rate structures beyond those in use for utility default service customers.⁸ That is why Puc 2205.16(d)(2) was written to allow CPAs and CEPS serving CPAs to provide utilities with a “*schedule of electricity rates and service pricing options applicable to the customer’s class and rate structure*” for use in rate-ready consolidated billing, and Puc 2205.16(c)(2) provides CPAs with the additional option of defining “*on-peak, mid-peak, and off-peak periods or other pricing options and rate structures that are different from those defined in the utility’s applicable tariffs on file with the commission, and to request enhanced metering services for customers...*” so long as the CPA pays for the associated utility system change costs.

⁷ IR 22-076, Order of Notice (11/15/22), p. 3, fn. 2. Online: www.puc.nh.gov/regulatory/Docketbk/2022/22-076/INITIAL%20FILING%20-%20PETITION/22-076_2022-11-15_NHPUC_OON.PDF.

⁸ See DRM 21-142, CPCNH Reply Comments, pp. 25-29 (regarding Puc 2205.16). Online: www.puc.nh.gov/regulatory/Docketbk/2021/21-142/LETTERS-MEMOS-TARIFFS/21-142_2022-03-28_CPCNH_OCA_CENH-COMMENTS.PDF.

Those Puc 2200 rules reflect the long-standing NH EDI requirements that utility rate-ready consolidated billing services allow competitive suppliers to use the same “*rate structures, customer class definitions and availability requirements that are within the capabilities of the Distribution Company’s billing system*”⁹ while allowing the additional option “*If a Supplier makes a written request to add a pricing/rate structure not currently supported by a Distribution Company, the Distribution Company will consider making reasonable changes to its billing system. The requesting Supplier will be responsible for any costs incurred to make the designated changes A different price structure may also require the installation of a different meter.*”¹⁰ In contrast to the focus on ensuring that CPAs would have a mechanism by which to request new rate structures, no stakeholder questioned whether the IOUs would allow CPAs to offer the same products and rate structures that utility billing systems were already capable of offering to utility default customers, as this was required under the NH EDI Standards and assumed throughout the Puc 2200 rulemaking process.

7. The only billing mechanism required under Puc 2200 rules that was understood at the time to represent a new service — requiring significant effort and time for the utilities to implement — was the “bill-ready” consolidated billing pursuant to Puc 2205.16(d)(1). This new service was intended to permit CPAs to perform customer bill calculations and transmit the amounts owed back to the utility to present on consolidated bills, so that CPAs would be able to freely innovate by offering advanced rates/products without first needing to request, pay for, and wait upon the utilities to make the necessary incremental changes to their billing systems pursuant to the above-described mechanism allowed for under Puc 2205.16(b)(2) each time a CPA requested a rate structure or product not currently supported by the utility’s billing system. The process change required to implement bill-ready consolidated billing,

⁹ EDI Standards, Supplier Guide, Section III, D, 1. Available online: www.puc.nh.gov/electric/EDI/part002-nhguide%20v3.pdf.

¹⁰ Ibid., Section III, D, 4.

however, was understood to be a significant market-wide change, as it would require the IOUs to first transmit customer usage data to CPAs and CEPS serving CPAs, and receive charges back for customer bill presentment, necessitating the introduction of a time delay between the close of customer billing cycles and the generation and transmittal of customer bills, among other design requirements.

8. The Puc 2200 rules became effective on October 12, 2022. Eight months later, on June 14, 2023, the IOUs filed a proposal to implement the bill-ready consolidated billing services pursuant to Puc 2205.16(d)(1), and a pre-hearing conference was held on August 17, 2023. By this point in time, IOU non-provision of usage data and billing services required for CPAs to serve TOU and NM customers — whether on a dual billing or consolidated billing basis — was well established, as CPCNH had launched the first CPAs and initiated supply service in April 2023. Indeed, CPCNH’s complaint against Eversource submitted to the Commission on June 13, 2023, details how the “*cumulative effect of these rule violations*” foreclosed CPA service for NM and TOU customers, prompting CPCNH’s request in February 2023, that each of the IOUs begin flagging TOU and NM customers in the Puc 2204.03 and Puc 2205.05(b) reports, which are provided to CPAs to enable customer notification and enrollment, so that the CPAs could “*avoid enrolling customers [that CPAs] could not properly serve at this time without requiring them to opt-out*” — and how all three of the IOUs subsequently agreed to do so, with support from DOE staff.¹¹

9. Consequently, during the pre-hearing conference, CPCNH explained that the IOUs’ \$8.9 million proposal to implement bill-ready consolidated billing was premature, and that a more cost-effective and expedient means to achieve the purpose behind Puc 2205.16(d)(1) — which was to allow more innovative rate structures and products to be offered by CPAs and CEPS serving CPAs — would be to

¹¹ See CPCNH Complaint, at 1.20. https://www.puc.nh.gov/regulatory/Docketbk/2023/23-062/INITIAL%20FILING%20-%20PETITION/23-062_2023-06-13_CPCNH_COMPLAINT-AGAINST-EVERSOURCE-ENERGY.PDF.

enable CPAs to offer TOU rates and NM credit programs to their customers on a dual-billing basis as an acceptable, interim alternative.¹² CPCNH explained that doing so required the IOUs to: (i) continue to identify TOU and NM customers in Puc 2204.03 and Puc 2205.05(b) reports so that CPAs could elect dual-billing service for the customers in advance of enrollment, as required pursuant to Puc 2205.16(a)(1), (ii) provide the usage data on a billing cycle basis required for CPAs to calculate supply charges and issue separate supply bills for TOU and NM customers, and (iii) modify wholesale load profile settlements to more accurately allocate customer usage on an hourly basis to the CPA, at a minimum implementing RSA 362-A:9, II and Puc 2205.15(b), which requires that the Commission approve changes to utility load settlement processes to more accurately reflect the hourly impact of NM generation on the wholesale load obligations of suppliers serving NM customers. After the pre-hearing conference, the Parties held a technical session where preliminary issues were discussed, and a procedural schedule was agreed upon.

10. On September 29, 2023, the Commission issued a pre-hearing order (the “Order”) which granted the Joint Utilities a temporary waiver of Puc 2205.16(d)(1) for the pendency of this docket, cited to CPCNH’s aforementioned proposal, observed that “*potential alternatives that could meet the intent of the rule appear to exist,*” and ruled that “*these alternatives should be explored and vetted in the instant proceeding before the Joint Utilities set out on a time consuming and costly path to compliance with Puc 2205.16(d)(1).*”¹³ Further, the Commission rightly noted that prioritizing CPCNH’s proposal would have the benefit of “*addressing other barriers to bill-ready billing first, such as access to data.*”¹⁴ The Joint

¹² See Prehearing Conference Transcript, p. 29 line 9 to p. 30 line 18, p. 31 line 22 to p. 38 line 5, and p. 53 line 12 to p. 54 line 10.

¹³ DE 23-063, Prehearing Order (9/29/23), pp. 3-4. Online: https://www.puc.nh.gov/regulatory/Docketbk/2023/23-063/ORDERS/23-063_2023-09-29_NHPUC_PREHEARING-ORDER.PDF.

¹⁴ *Ibid.*, p. 4.

Parties agree and emphasize that the provision of usage by TOU interval and of negative usage data for NM customers is required under both the IOU's bill-ready consolidated billing proposal and under CPCNH's dual billing proposal. The advantage of separating and prioritizing implementation of dual billing for TOU and NM customers first, from a ratepayer advocacy perspective, is that the changes to each IOU's EDI and billing systems required to begin providing the data to CPAs and CEPS should have already been implemented a quarter-century ago, pursuant to the NH EDI Standards. As such, these costs should not have been included in the IOUs' overall estimates for recovery from ratepayers.

11. The Parties subsequently engaged in a series of discussions regarding CPCNH's alternative proposal. On December 6, 2023, The IOUs represented to the Commission that the Parties had made progress in reaching a common position and requested that the procedural schedule be temporarily suspended in anticipation of a Joint Party motion to reach resolution, which was granted by the Commission on December 12, 2023. In a status update submitted to the Commission on February 22, 2024, Unitil represented that the parties had not yet arrived on a common position regarding a joint party motion and requested a one-month extension of the suspension of the docket's procedural schedule to allow the parties to complete their discussions. The Commission granted Unitil's request on February 27, 2024. The IOUs subsequently submitted a motion to the Commission on March 22, 2024, requesting that the Commission issue a supplemental order of notice *"clarifying that the proper scope of the docket is the consideration of the Utilities' bill-ready billing proposal"* and *"If the Commission declines the above request, in the alternative, issue a supplemental order of notice that lists the consideration of dual billing as a possible alternative to the Utilities' bill-ready billing proposal as an issue in this docket, and provide a sufficient period for potential affected parties to intervene."*¹⁵

¹⁵ Joint Utility Motion for a Prehearing Conference and Supplemental Order of Notice, p. 6.

12. The Joint Parties urge the Commission to reject the IOUs' request. As a threshold matter, granting the IOUs' first request would countermand the Commission's pre-hearing order, which explicitly acknowledged and directed parties to explore and vet alternatives in this proceeding, such as CPCNH's dual billing proposal, ahead of the IOUs' bill-ready consolidated billing proposal. Further, while the Joint Parties concur that issuance of a supplemental order of notice is warranted at this time, the IOUs' motion fails to take into consideration or provide the Commission with useful specificity regarding the relevant insights and progress gained over the last six months, during which parties met virtually, at least monthly, to discuss the changes to each IOU's EDI system and wholesale load settlement processes required to implement CPCNH's alternative proposal, and to clarify the EDUs' EDI capabilities, which allowed CPCNH and Calpine Energy Solutions to jointly develop a technical summary of the EDI changes for each utility required to enable CPAs and CEPS to dual bill TOU and NM customers as required by the NH EDI Standards. This technical proposal is now being finalized by the EDI subgroup of the NH EDI / EBT Working Group. Instead, the IOUs' motion asserts that CPCNH has failed to provide adequate details to support the IOUs' evaluation of the dual billing proposal, which the IOUs represented should include "*compliance with Puc 2004.06; plans for billing, payment, and customer service processes and standards, process for nonpayment by customers [footnote: Puc 2004.18 lays out the parameters for termination of service by CEPS...This would apply equally to CPAs...]; and security and cybersecurity plans for handling customer financial information.*"¹⁶

13. The Joint Parties observe that the IOUs never requested such information from CPCNH at any point over the last six months of discussions, and that none of the aforementioned considerations are necessary for the IOUs to implement the EDI system changes required to provide CPAs and CEPS with the customer and usage data required to enable dual billing for TOU and NM customers. FIRST,

¹⁶ Ibid., p. 4.

regarding the ostensible need for CPCNH to detail "*compliance with Puc 2004.06*," this rule imposes certain separate billing requirements on CEPS and is generally not applicable to CPAs pursuant to Puc 2205.02(b), unless otherwise imposed explicitly by the CPA's Electric Aggregation Plan ("EAP") or contract with a CEPS — neither of which are applicable to CPCNH. Even if the Puc 2004.06 requirements were applicable pursuant to a given CPA's EAP or CEPS contract, it would be a matter between the CPA and CEPS, and not subject to Commission oversight or IOU review. SECOND, the "*plans for billing, payment, and customer service processes and standards*" relied upon by a CPA to implement its own dual billing service are internal business matters and, similarly, not subject to Commission oversight or IOU review. THIRD, the "*process for nonpayment by customers*" that a given CPA chooses to implement is an internal business matter and also not subject to Commission oversight or IOU review. Additionally, the footnote in the IOUs' motion which asserts that Puc 2004.18 "*applies equally to CPAs*" actually only applies to CEPS serving CPA customers, again pursuant to Puc 2205.02(b), and simply imposes a set of procedural and customer notification requirements upon the CEPS governing termination of supply service in the event that a residential or small commercial customer materially breaches their contract with the CEPS. There is nothing in Puc 2004.18 that could be construed as requiring Commission oversight or IOU review prior to a CEPS electing to dual bill any customer on behalf of a CPA. FOURTH and FINALLY, regarding a CPA's "*security and cybersecurity plans for handling customer financial information*," RSA 368:38, IV requires service providers, including CPAs, to employ reasonable security procedures and practices to protect individual customer data from unauthorized access, use, distribution, modification or disclosure, and the Commission has required EAPs to demonstrate applicable statutory standards in this regard prior to approval. As such, CPAs operating pursuant to an approved EAP are service providers obligated to comply with RSA 368:38, IV requirements, including for purposes of "*handling customer financial information*" when dual

billing customers — which is a service CPAs are authorized to perform pursuant to Puc 2205.16(a)(1) — and the suggestion by the IOUs that enabling dual billing for TOU and NM customers in particular would somehow require additional oversight by the Commission or review by the IOUs themselves is without merit.

14. On the basis of the foregoing, the Joint Parties urge the Commission to disregard the IOUs' motion in favor of the recommendations contained herein. Substantial progress has been made regarding CPCNH's alternative proposal. For instance, regarding the necessary EDI changes to support dual billing for NM and TOU customers, the Department of Energy ("DOE") submitted a status update to the Commission on March 22, 2024, noting that an *"issue identified by stakeholders as the top priority is enabling the provision of data necessary to accommodate dual-billing for net metered and time of use customers on competitive supply, including those customers in community power jurisdictions. The next meeting of the EDI Working Group is scheduled for Monday, March 25, 2024, where the stakeholders will discuss these issues and potential next steps."*¹⁷ As mentioned above, CPCNH and Calpine Energy Solutions jointly developed a technical summary of the EDI changes necessary for each utility, which was presented and discussed at the March 25, 2024 EDI / EBT Working Group meeting, during which it was agreed that the draft would be passed to the EDI Subgroup for technical review and finalization of the proposed changes. Refer to Attachment 1 for the draft summary of EDI changes under technical review by the EDI Subgroup. After finalization by the EDI / EBT Working Group, the proposed EDI changes should be submitted for the Commission's review in this proceeding as a component of CPCNH's alternative proposal.

15. However, and also at the March 25, 2024, EDI / EBT Working Group meeting, Eversource clarified their opinion that the company is under no obligation to provide complete billing determinants

¹⁷ DOE Status Update (DE 23-063), p. 2.

for TOU and NM customers and would therefore only make the EDI changes necessary to enable dual billing for such customers in response to an order from the Commission on implementation and cost recovery. The Joint Parties assert that Eversource is in error and that each utility is obligated to provide CPAs and CEPS with each customer's full billing determinants that are in the utility's possession at the close of every billing cycle, which include negative usage data for NM customers and usage by interval for customers on 2-part and 3-part TOU rate structures, all of which are supported by the NH EDI Standards and were ordered to have been implemented by the Commission twenty-six years ago pursuant to Order No. 22,919.¹⁸ As such, the Joint Parties request that Eversource, Unitil, and Liberty be granted a temporary waiver to the above requirements of the NH EDI Standards, as applicable to each IOU, with the understanding that all IOUs will prioritize enabling dual billing for TOU and NM customers, subsequent to the finalization of the EDI changes necessary to do so by the NH EDI / EBT Working Group, and will achieve compliance on that basis.

16. The Joint Parties also assert that implementation of the EDI changes required to enable dual billing for TOU and NM customers is necessary for Eversource and Liberty to comply with 2205.13(a)(7). The Commission's pre-hearing order clarified that "usage data" meant positive and negative usage data for NM customers whenever "usage data" appeared in the Puc 2200 rules and granted Eversource's request for temporary waivers regarding provision of negative usage data under Puc 2204.02(a)(2) and 2205.13(a)(7) until such time as the utility was capable of providing NM customer negative usage data, which Eversource had anticipated would be by the end of September 2023. Over the last few months of discussions, however, the Joint Parties subsequently determined that Unitil and NHEC provide negative usage data via EDI, in data files made available to CPAs and CEPS on an individual customer basis each month that satisfy the requirements of Puc 2205.13(a)(7), but that Liberty, in

¹⁸ See the citations and footnotes in Paragraph 2 above.

addition to Eversource, was not providing negative usage data via EDI, and instead implemented or intended to implement custom reports¹⁹ containing all of the data fields required under Puc 2205.13(a) for all of the individual customers served by a CPA. These reports would include negative usage data for individual NM customers, but only be made available to CPAs upon request once every quarter (i.e., every three months). Consequently, while positive usage data for each customer's current billing cycle is provided every month via EDI to CPAs, negative usage data would only be received every three months, with up to a four-month delay between the start of a given customer's billing cycle and the receipt of their usage data by the CPA.²⁰ As negative usage is a necessary billing determinant for serving NM customers, Eversource and Liberty's provision of this data only in arrears, and on a quarterly basis, is of essentially no practical use or value from an operational perspective. CPAs are unlikely to attempt offering a net metering program under which customers would only receive their export supply credits with a delay of up to four months, given the customer confusion and negative perceptions such unacceptable billing delays would generate for the program. Further complicating matters would be situations in which a net metered customer switched from CPA service to utility default service or CEPS service during the quarterly period in which a CPA would be waiting to receive the billing determinants for that customer. Finally, such quarterly reports would also put some of that data in CPA hands only after the secondary load settlement with ISO New England, making impractical the ability of suppliers to exercise their right and responsibility to verify their load settlement data with ISO-NE in a timely manner.²¹ As such, the

¹⁹ Liberty Utilities has not yet commenced provision of these reports, while Eversource has done so.

²⁰ For example, the negative usage data for a net metered customer with a billing cycle spanning December and January would not be received until after the close of the first quarter, e.g., presumably in early April.

²¹ See Eversource's Tariff Terms and Conditions for Energy Suppliers, Section 7. Determination of Hourly Loads for ISO-NE Reporting, subsection (e) Data Review: "*The process of Supplier load estimation involves statistical samples and estimating error. The Company shall not be responsible for any estimating reporting, settlement or other types of errors associated with, or resulting from, this process, and the Company shall not be liable to any Supplier or any third party for any costs or losses that are associated with such errors. **Each Supplier is solely***

Joint Parties assert that both Liberty and Eversource remain out of compliance with 2205.13(a)(7). The Joint Parties request the Commission continue Eversource's temporary waiver to 2205.13(a)(7), and grant Liberty the same temporary waiver, again with the expectation that each utility will prioritize enabling dual billing for TOU and NM customers, after the NH EDI / EBT Working Group finalizes the EDI changes necessary to do so, which will enable provision of NM negative usage data via EDI and achieve compliance with 2205.13(a)(7).

17. The IOUs should be required by the Commission²² to continue to identify individual TOU and NM customers in Puc 2204.03(a) and Puc 2205.05(b) reports, which are provided to CPAs to flag those customers prior to enrollment on an opt-out or opt-in basis, given that after the EDI changes necessary to enable CPAs and CEPS serving CPAs to provide TOU supply rates and/or NM crediting programs to customers on a dual-billing basis are implemented, CPAs will have a continuing need to identify TOU and NM customers in advance of enrollment, due to the Puc 2205.16(a)(1) requirement that CPAs inform the utility of dual-billing election for such customers prior to their enrollment. In addition, such data is necessary in advance of implementation of EDI changes to enable dual billing. Until that time, CPAs will remain unable to provide TOU supply rates or NM crediting programs to customers by any means, and therefore, these customers must be identified by the IOUs in advance of enrollment so that CPAs can avoid potentially financially harming such customers by inadvertently enrolling them on a

responsible for checking and ensuring the accuracy of all such data." (Original Page 39-40).
https://www.eversource.com/content/docs/rates-tariffs/electric-delivery-service-tariff-nh.pdf?sfvrsn=b0faa55d_19.

²² Although ideally this need might be addressed in rules, the Commission may also address this issue through an order in an adjudicated proceeding. RSA 53-E:7, X provides (with emphasis added): "The commission shall adopt rules, under RSA 541-A, to implement this chapter and, to the extent authorities granted to municipalities and counties by this chapter materially affect the interests of electric distribution utilities and their customers, to reasonably balance such interests with those of municipalities and counties for the public good, **which may also be done through adjudicative proceedings to the extent specified or not addressed in rules.**"

default supply service basis. Identification of TOU and NM customers in Puc 2204.03(a) and Puc 2205.05(b) reports should, therefore, be made a permanent requirement.

18. Complementing the changes to EDI and billing services to enable CPAs and CEPS to offer TOU rates and NM supply credit programs — whether through dual billing, rate-ready consolidated billing, or bill-ready consolidated billing — are changes to wholesale load settlement processes to more accurately reflect the energy exports of NM customers and usage by interval for TOU customers. At a minimum, NH RSA 362-A:9, II, which authorizes CPAs and CEPS to determine “*the terms, conditions, and prices*” for selling electricity to and purchasing excess generation from NM customers, states that the generation output of such customers “*shall be accounted for as a reduction to the customer-generators' electricity supplier's wholesale load obligation for energy supply as a load serving entity, net of any applicable line loss adjustments, as approved by the commission.*” Puc 2205.15(b) references RSA 362-A:9, II and reiterates this requirement. As such, the Commission must approve conforming changes to load settlements for utilities to implement the requirements of both RSA 362-A:9, II and Puc 2205.15(b).

19. The Joint Parties have engaged in substantive discussions with each utility regarding their respective load settlement processes. Currently, for settling customers without interval meters, the utilities rely on class average load profiles that do not distinguish between NM and non-NM customers. As such, NM and non-NM customers within a given rate class are assumed to have the same hourly pattern of electricity consumption for load settlement purposes. Onsite generation offsetting onsite load therefore ends up being accounted for simply by lowering a given NM customer's net load equally across all hours of their class average load profile, during both the day and at night. This introduces obvious inaccuracies to the load settlement process generally, given that solar generation actually only offsets onsite customer consumption during daytime hours, and should be accounted for as such. Relatedly, while large NM customers with interval meters are settled based on interval data, it is the

Joint Parties’ understanding that residential and small commercial NM customers with interval meters on 3-part TOU rates are still being settled based on class average load profiles. Further inaccuracies are introduced because no utility load settlement process explicitly accounts for the generation exported by NM customers to the distribution grid at present. Instead, for NM customers with interval meters and also for NM customers settled based on class average load profiles, their negative usage is “zeroed out” on an individual customer basis, prior to estimating each supplier’s hourly load, and subsequently only accounted for indirectly, by “truing up” the hourly load estimates of all suppliers serving customers settled on class average load profiles to the actual, measured volumes of electricity imported into each utility’s service territory for each hour. In this way, the excess generation of all NM customers is essentially hidden as part of the “unaccounted for energy” (UFE) residual adjustment step of the load settlement process.²³ Because NM excess generation is not being allocated specifically to the suppliers that are serving NM customers, their electricity usage during daytime hours is being reported to ISO-NE by the utilities as higher than it otherwise should be. By the same token, the hourly usage of suppliers that are not serving NM customers are nevertheless being adjusted downwards during daytime hours by the utilities to account for the overall effect that NM generation exports have in terms of decreasing the amount of electricity imported into the utility’s service territory overall. In these ways, the benefits of load reduction from NM excess generation are being socialized across all suppliers settled using class average load profiles, rather than being explicitly allocated to the suppliers serving NM customers.

20. Given that most NM customers are on utility default service, this practice actually harms utility default service customers. ISO-NE load settlements for suppliers serving default service customers should be lower during daytime hours but instead, are being over-estimated due to default suppliers not

²³ The value of reduced transmission cost allocation to NH is also not accounted for with NM exports.

receiving full credit for NM customer excess generation, resulting in increased market purchases and higher default service revenue requirements. The Joint Parties observe that utilities have little incentive to fix this cost shift by accounting for negative usage in load settlement, because utilities are able to socialize the costs paid to NM customers for their excess generation by recovering the expense from all electric utility distribution customers. In contrast, CPAs and CEPS cannot socialize the cost of paying NM customers for excess generation and must recover such costs through their supply rates.

Consequently, until load settlements are updated to credit individual suppliers with the negative usage of their NM customers, CPAs and CEPS that offer NM programs will pay twice for a portion of that power — once to the customer-generator for their exports and again to purchase that same amount of power through ISO-NE to serve other customers. The result of this will artificially raise CPAs' and CEPS' cost of supply as well as the rates charged to customers. This is contrary to the purpose of the net metering law which the legislature found “*should be pursued in a competitive environment,*” not one in which all of the benefits associated with customer-generator exports are socialized to all electric utility distribution customers, and likewise for all of the costs, but only for utility default service.²⁴

²⁴ Chapter 261:1, NH Laws of 1998, the legislation that created net metering and expressly provided that “[e]lectricity suppliers may voluntarily determine the terms, conditions, and prices under which they will agree to provide generation supply to and purchase net generation output from eligible customer-generators,” amended the “Declaration of Purpose” of the chapter to include the following text shown in bold italics, which persists in the current text of RSA 362-A:1:

“It is found to be in the public interest to provide for small scale and diversified sources of supplemental electrical power to lessen the state's dependence upon other sources which may, from time to time, be uncertain. It is also found to be in the public interest to encourage and support diversified electrical production that uses indigenous and renewable fuels and has beneficial impacts on the environment and public health. ***It is also found that these goals should be pursued in a competitive environment pursuant to the restructuring policy principles set forth in RSA 374-F:3. It is further found that net energy metering for eligible customer-generators may be one way to provide a reasonable opportunity for small customers to choose interconnected self generation, encourage private investment in renewable energy resources, stimulate in-state commercialization of innovative and beneficial new technology, enhance the future diversification of the state's energy resource mix, and reduce interconnection and administrative costs.***”

21. The General Court has communicated its policy preference for competitive, market-based solutions for both wholesale and retail electricity services,²⁵ which requires that load settlements be as accurate as possible in terms of estimating hourly electricity usage on an individual supplier basis. The need for the Commission to approve conforming changes to load settlements for utilities to implement the requirements of both RSA 362-A:9, II and Puc 2205.15(b) will necessarily entail addressing the structural deficiencies and inaccuracies observed in current utility load settlement processes described above. The Joint Parties agree that the necessary changes to wholesale load settlement processes associated with enabling CPAs and CEPS to offer TOU and NM crediting programs, whether on a dual billing or consolidated billing basis, would be most efficiently addressed through a supplemental order of notice to allow other interested parties an opportunity to intervene in this docket.

WHEREFORE, the Parties respectfully request that the Commission:

- A. Issue a supplemental order of notice confirming that enabling CPAs and CEPS to serve net metered and time-of-use customers on a dual billing basis is a possible alternative to the IOUs' bill-ready consolidated billing proposal at this time, in accordance with Puc 201.05(b)(2) and as indicated in the prehearing order, and clarifying that implementation of the alternative proposal to satisfy the purpose of the rule would entail: (1) the IOUs implementing all necessary changes to their EDI systems and business processes to enable the provision of billing determinants to support dual billing for such customers, (2) the IOUs continuing to identify net metered customers and customers on time-varying supply rates in Puc 2204.03(a) and Puc 2205.05(b) reports so that CPAs will be able to inform the utility of the dual-billing election for such customers prior to their enrollment, as required by Puc 2205.16(a), and (3) updating wholesale load profiling and settlement processes and corresponding sections of utility tariffs, to more accurately allocate NM

²⁵ See NH RSA 374-F:1 Purpose, RSA 374-F 3 Restructuring Policy Principles, and RSA 362-A:1 Declaration of Purpose.

and potentially TOU customer usage on an hourly basis to suppliers, at a minimum to implement RSA 362-A:9, II and Puc 2205.15(b) requirements;

- B. Direct the NH EDI / EBT Working Group to continue to prioritize implementation of dual billing for NM and TOU customers, by finalizing the EDI changes proposed in Attachment 1 for submission in this proceeding and review by the Commission;
- C. Grant the IOUs a temporary, partial waiver to the requirements of the NH EDI Standards regarding provision of usage data by applicable time-of-use period, negative usage data for customer generators, and customer distribution tariff rate, as applicable to each utility — and to their distribution tariff and supplier service agreements requiring provision of usage data sufficient to support dual billing for any customer, with no exception permitting the utility to withhold billing determinants for net metered and time-of-use customers from CPAs and CEPS — with the understanding that all IOUs will prioritize enabling dual billing for NM and TOU customers as the NH EDI / EBT Working Group establishes the necessary EDI changes, and that each utility will achieve compliance on that basis;
- D. Extend Eversource’s temporary waiver, and grant Liberty the same temporary waiver, regarding provision of negative usage data under Puc 2205.13(a)(7) until such time as each utility implements the EDI system changes necessary to provide individual NM customer energy export data to CPAs and CEPS each month, again with the understanding that as such changes are established by the NH EDI / EBT Working Group the utilities will implement them to achieve compliance on that basis;
- E. Order the IOUs to continue to provide the essential service of flagging NM and TOU customers prior to enrollment in Puc 2204.03(a) and Puc 2205.05(b) reports provided to CPAs, so that, prior to the implementation of dual-billing for such customers, CPAs will be able to eliminate the potential for such customers to be financially harmed through inadvertent enrollment into CPA default service;
- F. Schedule a pre-hearing conference and invite party input and testimony on the above topics, including on an appropriate line loss adjustment factor and necessary changes to the language in tariffs governing load settlements to comply with RSA 362-A:9, II and Puc 2205.15(b), and the extent to which IOU costs associated with implementing the EDI changes necessary to enable dual billing for NM and TOU customers should be recovered from ratepayers or disallowed, and

any additional proposals that should also be considered as potential alternatives to better achieving the intent of Puc 2205.16(d)(1) in accordance with Puc 201.05(b)(2); and

G. Grant any further relief as may be just and equitable.

Respectfully submitted,

Community Power Coalition of New Hampshire and Conservation Law Foundation.

(signatures follow on next pages)

COMMUNITY POWER COALITION OF NEW HAMPSHIRE

3/28/2024

By: Clifton Below
Clifton Below
Chair
14 Dixon Ave., P.O. Box 840
Concord, NH 03302
(603) 667-7785
Clifton.Below@CommunityPowerNH.gov

CONSERVATION LAW FOUNDATION

By: /s/ Nick Krakoff
Nick Krakoff, Esq.
Senior Attorney

CERTIFICATE OF SERVICE

I hereby certify that, on the date written below, I caused the attached to be served pursuant to N.H. Code Admin. Rule Puc 203.11.

____3/28/2024_____
Date

Clifton Below

Clifton Below