

THE STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

Public Service Company Of New Hampshire d/b/a Eversource Energy

Docket No. DE 24-070

Request For Change In Distribution Rates

BRIEF OF PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE REGARDING
LIMITING INTERVENTION

Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource” or the “Company”) submits this brief in accordance with the directives of the New Hampshire Public Utilities Commission (the “Commission”) at the July 22, 2024 pre-hearing conference. This brief addresses certain questions posed by the Commission regarding whether to limit the scope of intervention for prospective intervenors in this proceeding consistent with RSA 541-A:32.

I. BACKGROUND

On June 11, 2024, the Company filed a petition requesting an increase in distribution rates and approval of a four-year performance-based ratemaking (“PBR”) plan pursuant to RSA 378:27, 378:28, N.H. Code Admin. Rules Part Puc 1604, Puc 1603.08, Puc 203.06, and Puc 206. In this proceeding the Commission will determine whether the proposed adjusted rates are just and reasonable; whether the proposed rate increase will yield a just and reasonable rate of return on the prudent cost of plant, equipment and capital improvements used and useful in the provision of service to the public less accrued depreciation, as well as whether to approve the Company’s proposed PBR plan which allows for adjustments to distribution rates (Order No. 27,029, at 5-6).

Clean Energy NH (“CENH”), Standard Power of America (“Standard Power”), New England Connectivity and Telecommunications Association, Inc. (“NECTA”), Community Power

Coalition of New Hampshire (“CPCNH”), Conservation Law Foundation (“CLF”), Hancock Lumber Company, Inc., Monadnock Paper Mills, Inc., Pike Industries, Inc., and the University System of New Hampshire (collectively, the “Rate LG Customer Consortium”), Walmart Inc. (“Walmart”), and Mary Ellen O’Brien Kramer, each filed timely petitions to intervene. On July 18, 2024, CLF filed an amended petition to intervene. On the same day, the Company filed a motion to limit intervention of CPCNH.

II. THE COMMISSION MAY IMPOSE LIMITS ON PARTICIPATION

RSA 541-A:32(I)(b) states the Commission shall grant a petition to intervene if: “[t]he petition states facts demonstrating that the petitioner’s rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law” and “[t]he presiding officer determines that the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention.” The Commission also has the authority to impose conditions upon an intervenor’s participation in the proceeding, either at the time that intervention is granted or at any subsequent time. RSA 541-A:32(III). Specifically, the Commission may (1) limit an “intervenor’s participation to designated issues in which the intervenor has a particular interest demonstrated by the petition”; (2) limit an “intervenor’s use of cross-examination and other procedure so as to promote the orderly and prompt conduct of the proceedings”; and (3) require two or more intervenors to “combine their presentations of evidence and argument, cross-examination, and other participation”. RSA 541-A:32(III)(a) through (c).

III. THE COMPANY DOES NOT OPPOSE GRANTING EACH PETITION TO INTERVENE

As an initial matter, the Company does not oppose granting any of the petitions to intervene, including CLF's petition as amended. Each petition to intervene sets forth the issues that the petitioners intend to participate in during the proceeding. With the exception of CPCNH, the Commission does not need to formally limit the potential intervenors' participation in this proceeding at this time. The issues identified in the respective petitions to intervene align with the basis for the petitioners' standing and the Company fully anticipates that the petitioners will limit their participation to those particular issues. Accordingly, the Company does not foresee a need for the Commission to formally limit participation of the potential intervenors, to ensure the prompt and orderly conduct of the proceeding. If during the course of the proceeding intervenor data requests, cross examination, or conduct disrupt the orderly and prompt conduct of the proceeding in a manner that warrants limitations pursuant to RSA 541-A:32(III), the Company reserves the right to request that the Commission impose reasonable conditions on participation that refocuses the parties on the topics at issue in this matter.

IV. THE COMMISSION SHOULD LIMIT CPCNH'S PARTICIPATION

On July 18, 2024, the Company filed a motion to limit the intervention of CPCNH ("Motion"). In the Motion, the Company demonstrates that unlike the other petitions to intervene, CPCNH states that it intends to explore issues that are outside of its grounds for intervention and are outside the scope of the noticed issues in this docket, specifically several broad issues that may impact its procurement and supply of electricity to its member municipal aggregation programs (Motion, at 2-3). CPCNH operates a joint powers agency that procures and supplies electricity to its member municipal aggregation programs (CPCNH Petition to Intervene, at 1). CPCNH asserts that it has "a strong interest in" certain subject areas which may be directly or indirectly impacted

by this proceeding¹ (CPCNH Petition to Intervene, at 2). Specifically, CPCNH indicates that it would like to participate in issues related to interconnection, PBR, rate design, energy efficiency and conservation, and “advanced” demand response. (CPCNH Petition to Intervene, at 2).

Although its operations relate to electric supply, CPCNH argues in its petition to intervene and during the pre-hearing conference that it should be allowed to participate in this proceeding because its member communities receive distribution service from Eversource and those municipalities, as distribution ratepayers, have a substantial interest in the proceeding as it relates to the distribution system and costs (CPCNH Petition to Intervene, at 2). CPCNH has not demonstrated how the Company’s request for an increase in distribution rates and approval of a PBR plan that adjusts distribution rates impacts the rights and duties of CPCNH, or its member communities, to provide electric supply services to its municipal aggregation customers. Accordingly, CPCNH’s participation should be limited to issues within the scope of the docket that relate to its demonstrated grounds for intervention. *See* RSA 541-A:32(III).

In regards to the remaining topics identified by CPCNH, other than the inclusion of a demand response reporting metric under the PBR plan mentioned above, the topics of energy efficiency and conservation and demand response are not within the scope of this proceeding. Programs related to these issues are reviewed in separate dedicated proceedings.² As discussed in Section V, below, CPCNH should not raise issues that are outside the scope of the proceeding.

¹ As noted in the Company’s Motion at 3, a “strong interest” in certain subjects is not a legal basis for intervention.

² The Company notes that CENH also indicates that it intends to participate in energy efficiency, conservation, and demand response issues, in addition to other issues (CENH Petition to Intervene at 1). As discussed in the Company’s Motion and herein, these issues are not within the scope of the proceeding. However, as discussed in Section V below, the Commission does not need to limit participation solely because a petitioner lists an issue in its petition to intervene that is not within the scope of the proceeding.

Given that CPCNH asserts that it intends to opine on issues that do not impact its role or operations as an operator of municipal aggregation programs, there is a legitimate concern that CPCNH may, through its investigation of issues not relevant to its interests, jeopardize the prompt and orderly conduct of the docket, which already has a very tight procedural schedule to comply with the legal time restriction on the duration of rate cases. Rate case proceedings must be completed within the statutory timeframe established in RSA 378:6, and investigation of issues unrelated to a party's grounds for participation in that proceeding is improper and contrary to law. Accordingly, the Commission should exercise its authority to limit CPCNH's participation to "designated issues in which the intervenor has a particular interest demonstrated by the petition." RSA 541-A:32(III)(a).

Limiting CPCNH's participation will not interfere with its rights or ability to raise issues in the scope that impact the interests of CPCNH, and ensures the prompt resolution of this proceeding is not thwarted. If CPCNH is not limited to appropriate issues in this proceeding, it will likely have a material impact on the timely and orderly resolution of docketed matters before the Commission.³ Therefore, the Company respectfully requests that CPCNH's participation in this proceeding be limited to relevant issues identified in its petition for which CPCNH also has standing, i.e., interconnection, and the reporting metrics for interconnection and demand response. Inquiries regarding distribution rates and the proposed PBR plan should be prohibited as CPCNH has no standing to intervene on these issues.

³ See, e.g., Docket No. DE 23-063. The docket was initiated by a petition for relief from the joint utilities, but more than a year after the start of the docket, the scope of the docket is still being contested.

V. LIMITATION IS NOT SOLELY BASED ON ISSUES OUTSIDE THE SCOPE

As noted above, certain potential intervenors have stated that they intend to explore issues that are not within the scope of the proceeding. This alone could, but does not necessarily, warrant limiting intervention. Specifically, both CENH and CPCNH indicate that they would like to raise issues related to energy efficiency and conservation, as well as demand response (CENH Petition to Intervene at 1; CPCNH Petition to Intervene at 2). As discussed above, programs related to those issues are reviewed in separate dedicated proceedings. Other than proposed reporting metrics, energy efficiency, conservation, and demand response are not within the scope of this base distribution rate proceeding.

Parties cannot investigate matters beyond the scope of this proceeding regardless of whether they are full or limited participants in the proceeding; participation must pertain to the scope of the noticed issues, so there is already a natural limitation on all parties, intervening and otherwise. Accordingly, the Commission does not need to limit participation solely because a petitioner lists an issue in its petition to intervene that is not within the scope of the proceeding. However, as discussed above, CPCNH has identified that it intends to raise issues that are both within and outside of the scope of the proceeding, but importantly, those issues named in CPCNH's request for intervention that are within the scope of this docket are entirely unrelated to its organizational purpose. When combined with the risk of delaying the prompt and orderly conduct of the proceeding, limitations on CPCNH's participation under RSA 541-A:32 are warranted and necessary.

Relatedly, during the July 22, 2024 pre-hearing conference, the Rate LG Customer Consortium indicated that they intend to propose an alternative transmission rate proposal. The Rate LG Customer Consortium did not reference or specifically identify such a proposal in its petition to intervene, but is nonetheless now stated grounds for intervention. To the extent that the

transmission rate proposal is about how transmission costs are allocated among rate classes or pertains to the transmission cost adjustment mechanism (“TCAM”), this proposal will also be outside the scope of this distribution rate case proceeding. The Company has not proposed any changes to transmission cost allocation in this proceeding, and the TCAM also has a separate dedicated annual docket process. However, in their petition the Rate LG Customer Consortium states that they are impacted by the rate design proposals described in the pre-filed testimony of Ms. Amparo Nieto (Bates pages 19191-19206 and 19251-19278) and intend to propose alternative LG Rate designs that differ from the designs proposed by the Company (Rate LG Customer Consortium Petition to Intervene, at 3). Assuming that the LG Customer Consortium is referring to the distribution rates proposed, which does seem to be the case, these issues are within the scope of the proceeding and clearly of particular interest to the Rate LG Customer Consortium. And underlying all of this is the fact that as Eversource LG customers, the Rate LG Customer Consortium has a clear vested interest in the entirety of this proceeding, as the outcome directly affects them. Accordingly, the Company does not request that the Commission impose limitations on the Rate LG Customer Consortium’s participation in this proceeding. However, to the extent the LG Customer Consortium put forth a proposal pertaining to how transmission costs are allocated and the resulting rates determined, the Company would object to the inclusion of such a proposal in this docket, as the appropriate forum for such a proposal would be in a dedicated docket of its own, opened at the request of a proper petition brought by the LG Customer Consortium.

VI. THE COMMISSION NEED NOT REQUIRE PARTIES TO PARTICIPATE JOINTLY

In its request for briefing, the Commission also asked the parties to indicate whether, consistent with RSA 541-A:32(III)(c), the Commission should require two or more intervenors to combine their presentations of evidence and argument, cross-examination, and other participation

in the proceeding. While some potential parties to the proceeding have similar interests and the Commission should encourage parties to coordinate data requests and arguments where possible to promote administrative efficiency, it is not necessary for the Commission to require two or more intervenors to combine their participation in the proceeding. As non-profit organizations that advance clean energy policy, CENH and CLF may have overlapping interests and issues in this proceeding and combining their participation may promote some efficiency. Nonetheless, these two potential parties have identified some distinct issues in their petitions to intervene. CENH and CLF have separately participated in other proceedings and there is no indication that such separate participation has disrupted the orderly and prompt resolution of proceedings in recent years, and the Company does not anticipate that their separate participation will jeopardize the efficiency of this proceeding. The Company supports any voluntary joint participation and would work with the parties to facilitate such participation if they choose to issue data requests or present evidence jointly.

Similarly, Standard Power and CPCNH both represent municipal aggregation programs, and therefore have common interests in the proceeding. Standard Power has also indicated that it is a developer of distributed energy resources, such as solar. Further, Standard Power and CPCNH have identified different reasons for intervention, and simply having a common business purpose does not mean that all of the two entities' interests are aligned, and therefore the Company does see a reason for Standard Power and CPCNH to jointly participate in this proceeding.


VII. CONCLUSION

In sum, the Company does not object to any of the petitions to intervene, but for the reasons set forth above, the Company requests that the Commission limit CPCNH's participation as described above and in the Company's Motion to prevent unreasonable and avoidable disputes

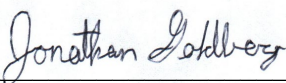
regarding irrelevant discovery, testimony and questions during hearings, and the objections and motion practice attendant with those disputes. The Company does not, however, request that the Commission limit the participation of any other potential party at this time or require any of the potential parties to participate jointly in the proceeding. The Company reserves the right to request that the Commission impose limitations on participation consistent with RSA 541-A:32(III) if the actions of parties during the course of the proceeding warrant such limitations.

Respectfully submitted,

**PUBLIC SERVICE COMPANY OF NEW
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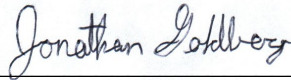
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CERTIFICATE OF SERVICE

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.



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