

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

IR 15-296

ELECTRIC DISTRIBUTION UTILITIES

Investigation into Grid Modernization

**Order Granting Motion for Clarification
and Denying as Moot Motion for Rehearing**

O R D E R N O. 26,575

February 3, 2022

In this order, the Commission grants Eversource's Motion for Clarification of Order No. 26,358. The order was issued as guidance to utilities and stakeholders. This guidance is significant because it announces a direction the Commission intends to take with regard to utility planning to modernize the electric distribution grid in New Hampshire. This guidance is designed to ensure that as New Hampshire utilities make investments to modernize the distribution system, they do so in a manner that imposes the least possible costs on customers. The guidance is also intended to ensure that utility assets acquired or modified as a result of those modernization investments perform as intended.

This order closes this investigative docket, commits to applying this guidance in electric distribution utility least-cost integrated resource planning dockets, and announces the commencement of a new docket to explore issues described in Appendix A of Order No. 26,358.

I. PROCEDURAL HISTORY AND BACKGROUND

On July 30, 2015, the Commission opened Docket No. IR 15-296, to investigate the modernization of New Hampshire's electric grid. After soliciting comment, the

Commission issued an order delineating the scope of the proceeding and process for further investigation. Order No. 25,877 (April 1, 2016) (Order on Scope and Process). That process established a facilitated working group that issued a report identifying consensus and non-consensus issues on March 2, 2017. (Working Group Report). Commission Staff (Staff)¹ then filed its recommendation on February 12, 2019. (Staff Report). The Staff Report recommended a framework for utilities to develop an integrated distribution plan that accommodates grid modernization and suggested several issues for further investigation through working group processes. After an opportunity for comment, a hearing, and two technical sessions, the Commission issued Order No. 26,254, which requested written comments on eleven topics and scheduled additional technical sessions. Order No. 26,254 (May 29, 2019) (Order on Procedural Issues).

The Office of the Consumer Advocate (OCA), Acadia Center, Clean Energy New Hampshire, Conservation Law Foundation (CLF), City of Lebanon (Lebanon), and Patricia Martin requested rehearing or clarification of Order No. 26,254. The Commission denied the request for rehearing or clarification. Order No. 26,275 (July 26, 2019) (Order Denying Rehearing). After an opportunity for comment, further stakeholder sessions, and an October 31, 2019, Staff Memo on consensus and non-consensus issues, the Commission provided guidance on utility distribution planning and outlined a process for continued investigation. Order No. 26,358 (May 22, 2020) (Order).

Public Service Company of New Hampshire, Inc. d/b/a Eversource Energy (Eversource) filed a timely motion for reconsideration and/or clarification on June 22,

¹ On July 1, 2021, the Commission was divided into two separate agencies, a Commission and a Department of Energy (DOE). Commission Staff participating in this docket became DOE staff. Because the actions by Staff in this docket occurred before July 1, 2021, we will refer to them as Commission Staff or Staff in this order.

2020 (Eversource Motion). On June 26, 2020, Unitil Energy Systems, Inc. (Unitil) filed a letter in support of Eversource's Motion (Support Letter). On June 29, the OCA and Lebanon jointly objected to Eversource's motion and moved to strike Unitil's Support Letter (Joint Objection). Staff also filed a response to the Eversource motion (Staff Response).

The Eversource Motion, and other docket filings, except any information for which confidential treatment is requested of or granted by the Commission, are available at <https://www.puc.nh.gov/Regulatory/Docketbk/2015/15-296.html>.

II. POSITIONS

A. Eversource Motion

The Eversource Motion differentiates between grid modernization investments and business as usual, or core, investments. Eversource argues that subjecting the planning process for core investments to the grid modernization stakeholder group (GMSG) process described in the Order was improper and illegal because it interfered with utility operations. Eversource also asserts that the GMSG process is vague and cannot be implemented without more detail.

Eversource argues that the Commission did not give adequate notice that changes to the utility planning process were to be considered. Eversource further claims that the guidance contained in the Order redefines utilities' rights without a reasonable opportunity to be heard via the process of an adjudicative proceeding. Eversource characterized the GMSG process as an unlawful third-party intrusion into utility system planning.

Eversource argues that the LCIRP statute requires that "the Commission review and evaluate the utility's plan filing," Eversource Motion at 40, but not individual projects. Eversource claims that the Commission's establishment of the GMSG

subjects the utility planning process to a third-party review, as opposed to Commission review. Eversource also asserts that solicitation of an independent professional engineer (IPE) to review planned investment decisions is not contemplated by the LCIRP statutes.

Finally, Eversource claims that applying the GMSG construct to utility core investments will increase customer outages, increase cost and operational risk, prohibit resolution of emergent needs, and limit the utility's ability to address system conditions on a timely basis.

B. OCA and Lebanon Joint Objection and Motion to Strike

The OCA and Lebanon argue that Eversource has not presented any new evidence nor identified any matters which the Commission overlooked or mistakenly conceived in the Order. They assert that the notice in this docket was consistent with due process. According to the OCA and Lebanon, the Order of Notice described grid modernization as a broad topic; the Order on Scope specifically listed distribution system planning as a topic of inquiry, Order No. 25,877 (April 1, 2016); and the Order on Procedural Issues further clarified that integrated distribution planning was within the scope of the proceeding, Order No. 26,254 (May 29, 2019).

The OCA and Lebanon also argued that Eversource waived its argument regarding the need for designation of the docket as a contested case and commencement of an adjudicative proceeding, pointing to Eversource's failure to move for rehearing of the Order on Procedural Issues, Order No. 26,254, and the related Order Denying Rehearing, Order No. 26,275 (July 26, 2019). Both orders rejected arguments that this docket should be conducted through an adjudicative proceeding.

The OCA and Lebanon state that the Order complies with the LCIRP statute, which allows the Commission to consult with other agencies and organizations during

the LCIRP evaluation process. *See* RSA 378:39. The OCA and Lebanon argue that Eversource misconstrued the role of the GMSG and IPE in the LCIRP process. Further, Eversource will be a participating stakeholder in any GMSG process and thus will be able to raise any concerns with the Commission during the GMSG process. They noted that Eversource's concerns regarding impacts on system reliability are not supported by any evidence.

Finally, OCA and Lebanon moved to strike Unitil's letter of support of the Eversource Motion as untimely filed under RSA 541:3.

C. Staff Response

The Staff takes no position on the Eversource Motion but responded to two assertions by Eversource. Staff claims that notwithstanding assertions to the contrary, Eversource had provided documentation showing the Company has studied many of the projects it plans to undertake beyond the two-year planning period. Staff Response at 2.

In response to Eversource's assertion that there is no evidence of a process or group like the GMSG being implemented in other jurisdictions, Staff noted that the states of Hawaii and California have adopted stakeholder processes to review planned distribution system investments for least-cost alternatives.

III. COMMISSION ANALYSIS

A. Clarification and Amendment of the Order

We begin by clarifying that the Order is issued as guidance by the Commission. The Commission announced this guidance at the culmination of an extensive and arduous investigative process that spanned five years and involved the participation and recommendations of many stakeholders, including Eversource and the other regulated electric distribution utilities operating in New Hampshire. This guidance is

significant because it announces a direction the Commission intends to take with regard to utility planning with a view to modernizing the electric distribution grid in New Hampshire. This guidance is designed to ensure that as New Hampshire utilities make investments to modernize the distribution system, they do so in a manner that imposes the least possible costs on customers. The guidance is also intended to ensure that those utility assets perform as intended. To the extent that the guidance contained in the order appeared to constitute mandates for utility action, we clarify that the order is intended to be guidance only.

The guidance will instruct the utilities and stakeholders in all pending and future LCIRP dockets of the goals and expectations for those dockets. In each of those LCIRP dockets, utilities and stakeholders will have the due process afforded in all Commission adjudications. Consistent with this guidance, the Commission will order data production and a stakeholder process for evaluating the data in each of those LCIRP dockets. The data presented and process for stakeholder involvement in those utility-specific LCIRP adjudications will be subject to evidence and argument by utilities and all other parties. The guidance in this order will be tested and refined in those LCIRP dockets.

B. Termination of this Investigation

We will close this investigation. The guidance provided in the Order is the culmination of a broad investigative process. The guidance will need to be applied going forward in utility-specific adjudicative LCIRP dockets and in a separate adjudicative docket on the subject of grid modernization to be established. As a result, we will not require the regulated electric distribution utilities to file the baseline data documents or the annual update to that data in this docket. Instead, we will request the baseline data and annual updates from each utility to be filed in the new

adjudicative proceeding, and also in any pending and future LCIRPs. Rather than requiring the utilities to file common assumptions and proposed metrics with the GMSG, we will require such filings in the new adjudicative proceeding described below.

We will not establish a GMSG. In each utility-specific LCIRP, we will develop an appropriate stakeholder process. Regarding the issues identified for the GMSG process in Appendix A to the Order, we will open a new adjudicative docket to examine and resolve those issues. That adjudicative docket will require the regulated electric distribution companies as mandatory parties and will allow all interested parties to be heard on these critical topics.

C. Rehearing or Reconsideration

Under RSA 541:3, the Commission may grant rehearing or reconsideration when a party states good reason for such relief. Good reason may be shown by identifying new evidence that could not have been presented in the underlying proceeding, *see O'Loughlin v. N.H. Personnel Comm'n*, 117 N.H. 999, 1004 (1977), or by identifying specific matters that were "overlooked or mistakenly conceived" by the Commission, *Dumais v. State*, 118 N.H. 309, 311 (1978).

As a result of our clarification and amendment of the Order, discussed above, Eversource's arguments on rehearing or reconsideration are moot. We therefore deny the motion and decline to rule on the specific arguments.

D. Joint Motion to Strike Unutil Letter of Support

Unutil filed a letter supporting Eversource's Motion on June 26, 2020, 34 days after Order No. 26,358 was issued. The OCA and Lebanon jointly requested the Commission strike Unutil's support letter. Motions for rehearing must be filed within 30 days and set forth grounds for rehearing. RSA 541:3-4. Unutil's filing is styled as a

letter supporting Eversource's position and states no separate grounds for rehearing. As a result, we find that Unitil's letter is not a motion and is not subject to the 30-day deadline. We, therefore, decline to strike it from the record in this proceeding.

Because, however, it contributes no additional information or argumentation, we decline to consider it and determine that it requires no further procedural response.

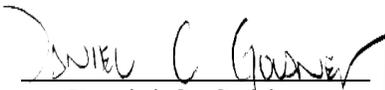
Based upon the foregoing, it is hereby

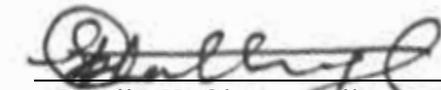
ORDERED, that Eversource's Motion for Clarification of Order No. 26,358 is **GRANTED** and Order No. 26,358 is clarified as discussed herein; and it is

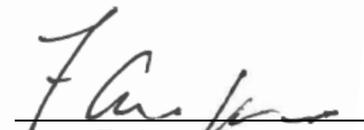
FURTHER ORDERED, that Eversource's Motion for Reconsideration of Order No. 25,358 is **DENIED** as moot: and it is

FURTHER ORDERED, that all further Ordering clauses of Order No. 26,358 are withdrawn and are null and void.

By order of the Public Utilities Commission of New Hampshire this third day of February, 2022.


Daniel C. Goldner
Chairman


Pradip K. Chattopadhyay
Commissioner


F. Anne Ross
Special Commissioner

Service List - Docket Related

Docket# : 15-296

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