

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 22-022

**CITY OF KEENE
City Manager's Office
3 Washington Street
Keene, NH 03431**

Request for Approval of Keene Community Power Electric Aggregation Plan

Memorandum of Decision re: Request for Plan Approval

O R D E R N O. 26,639

June 9, 2022

In this decision, the Commission determines, without prejudice, that the Keene Community Power Electric Aggregation Plan (Plan) fails to meet certain applicable statutory requirements and encourages the City of Keene (Keene) to re-submit an amended plan when the rulemaking process is closer to completion or has concluded. The Commission observes that the Plan is the result of a thoughtful and rigorous process at the municipal level and commends Keene on the resulting Plan. The Commission wishes to encourage such community power aggregation because it will result in a more competitive retail market and greater customer choice.

I. BACKGROUND

On April 11, 2022, Keene submitted a request for approval of a community power aggregation plan to provide electric power supply and services for residents, businesses, and other entities in Keene pursuant to RSA chapter 53-E. Accompanying its request, Keene submitted the text of its Plan with attachments.

On April 12, 2022, the Commission issued an acknowledgment letter, as well as an order of notice establishing a deadline for comments relating to the Plan. No comments or other filings were received in this matter.

Keene's request, along with all subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, is posted at: <https://www.puc.nh.gov/Regulatory/Docketbk/2022/22-022.html>.

II. COMMISSION ANALYSIS

The Commission has reviewed Keene's Plan pursuant to RSA 53-E:7, II, as amended, which states that "[t]he commission shall approve any plan submitted to it unless it finds that it does not meet the requirements of this chapter and other applicable rules and shall detail in writing addressed to the governing bodies of the municipalities or counties concerned, the specific respects in which the proposed plan substantially fails to meet the requirements of this chapter and applicable rules." First, we note that RSA 53-E:7, II also provides specific direction on the process to be used for the submission of such plans, including that: 1) on the same day the plan is submitted to the Commission, copies shall be provided to the Office of the Consumer Advocate and any electric distribution utility providing service within the jurisdiction of the municipality; 2) the Commission shall accept public comments for 21 days thereafter; and 3) the Commission's review of the plan and comments shall not require a contested case. Keene's submission complied with these procedural requirements, and as noted above, no comments were received. Next, we assess the requirements of RSA Chapter 53-E and applicable rules. Keene has submitted a plan that substantially meets the applicable procedural requirements of RSA Chapter 53-E, including an adequate level of detail of the RSA 53-E:6, III plan criteria. These criteria address the process for development of the plan, and many substantive matters affecting operations of the community aggregation and its interaction with the

aggregation program participants. Where we find the Keene Plan lacks specificity is in the aggregation Plan's relationship and interface with the franchised electric energy distribution utility. That relationship, including the ground rules for interactions between aggregation programs and utilities, is the subject of present rulemaking in Docket No. DRM 21-142.

RSA 53-E:7, X provides that the "commission shall adopt rules, under RSA 541-A, to implement this chapter... Such rules shall include but not be limited to rules governing the relationship between municipal and county aggregators and distribution utilities, metering, billing, access to customer data for planning and operation of aggregations, notice of the commencement or termination of aggregation services and products, and the reestablishment of a municipal or county aggregation that has substantially ceased to provide services." The applicable rulemaking process was initiated on January 5, 2022, in Docket No. DRM 21-142, and may result in additional requirements that could have substantive impacts on the Commission's evaluation of Keene's Plan. The Commission continues to believe that the establishment of statewide rules applicable to community power aggregations are needed, and that RSA chapter 53-E requires such rules to ensure that the statutory provisions for such plans are satisfied with consistency and uniformity throughout electric service territories within the State of New Hampshire. *See, e.g., City of Lebanon*, Order No. 26,571 at 3-4 (January 26, 2022).

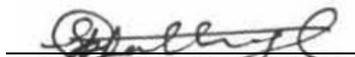
Therefore, to the extent that the implementation of the Plan will be affected by, and likely rely upon future rules, we conclude that the proposed Plan substantially fails to meet applicable requirements at this time. As the rulemaking proceeding to develop these rules is underway, the City is not at fault for this deficiency. The

Commission intends to conclude this rulemaking process in a timely manner; on this date we separately notice a meeting of the Commission in Docket No. DRM 21-142 where the Commission will convene to vote to adopt a final rulemaking proposal for submission to the Office of Legislative Services.

Based upon the foregoing, it is hereby determined that the City of Keene's Request for Plan Approval is DENIED without prejudice.

By order of the Public Utilities Commission of New Hampshire this ninth day of June, 2022.


Daniel C. Goldner
Chairman


Pradip Chattopadhyay
Commissioner


Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket# : 22-022

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Email Addresses

ClerksOffice@puc.nh.gov
Energy-Litigation@energy.nh.gov
edragon@keenenh.gov
ocalitigation@oca.nh.gov