

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 22-043

STATEWIDE LOW-INCOME ELECTRIC ASSISTANCE PROGRAM

2022-2023 Program Administrative Budgets

Order Establishing Modifications to Program

O R D E R N O. 27,031

July 9, 2024

In this order, the Commission makes certain modifications to the 2024-2025 statewide low-income electric assistance program and lays out areas for further evaluation.

I. BACKGROUND AND POSITIONS

Interested persons may review the procedural history and background for earlier stages of this proceeding in Commission Order Nos. 26,870 (August 9, 2023), and 26,693 (September 29, 2022), issued in this DE 22-043 docket, and Order Nos. 26,593 (March 16, 2022) and 26,739 (December 1, 2022), issued in Docket No. DE 21-133. The current purpose of this DE 22-043 docket, as indicated in the Commission's supplemental order of notice issued on July 17, 2023, prehearing order issued on August 22, 2023, and procedural order issued on January 5, 2024, is to review the design and administration of the statewide low-income electric assistance program (EAP), as established by statute and by prior orders of the Commission. *See* Order No. 23,980 (May 30, 2002). The EAP is funded by the system benefits charge, which is paid by all ratepayers as required by RSA 374-F:3, VI, and RSA 374-F:4, VIII(c). The EAP program is administered by the community action agencies (CAAs), the New Hampshire Department of Energy (DOE), and the State's four electric distribution utilities: Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty (Liberty); the New

Hampshire Electric Cooperative, Inc (NHEC); Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource); and Unitil Energy Systems, Inc. (UES) (together, the Utilities).

On October 3, 2022, the DOE filed, on behalf of itself, the Utilities, the CAAs, and LISTEN Community Services (LISTEN), represented by New Hampshire Legal Assistance, a report prepared by Mr. Roger Colton of Fisher, Sheehan & Colton, the consultant with whom Eversource contracted, on behalf of the DOE, to undertake a review and evaluation of the EAP (Colton Report). Hearing Exhibit 3. The DOE's October 3, 2022 filing also included a series of recommendations made to the Commission in response to the Colton Report by the EAP Advisory Board.¹ Hearing Exhibits 4 and 5.

On July 17, 2023, the OCA filed a letter of participation. A prehearing conference was held for this proceeding, as scheduled by the July 17 supplemental order of notice, on August 8, 2023, at which representatives of the DOE, the OCA, the Utilities, LISTEN, and the CAAs attended. On the basis of the positions presented by the parties to this proceeding, through the October 3, 2022 DOE filing and at the August 8, 2023 prehearing conference, the Commission approved, by Order *Nisi* (in Order No. 26,870, (August 9, 2023)) a series of initial modifications to the EAP program structure for integration in the 2023-2024 program year (October 1, 2023 to September 30, 2024). Interested persons may review these changes within Order No. 26,870. The Colton Report, the EAP Advisory Board recommendations, and all other filings in this docket, other than any information for which confidential treatment is

¹ The EAP Advisory Board is comprised of the following entities: the DOE; the Office of the Consumer Advocate (OCA); Eversource; Liberty; NHEC; UES; New Hampshire Legal Assistance; the CAAs; and the New Hampshire Local Welfare Administrators Association. The EAP Advisory Board recommendations are available here: https://www.puc.nh.gov/Regulatory/Docketbk/2022/22-043/LETTERS-MEMOS-TARIFFS/22-043_2022-10-03_NHDOE_JT_UTILITIES_EAP_ADVISORY_RECOMMENDATIONS.PDF

requested of or granted by the Commission, are posted on the Commission's website at <https://www.puc.nh.gov/Regulatory/Docketbk/2022/22-043.html>

The current phase of this proceeding was launched, following the issuance of Order No. 26,870, by the Commission's prehearing order issued on August 22, 2023. At the request of the parties, the Commission offered the following areas of scoping focus for this phase of the proceeding:

1. Whether the Commission should approve implementation of the Colton Report/EAP Advisory Board Recommendations 5, 6, and 7 for the 2024-2025 EAP program year (October 1, 2024 to September 30, 2025), and beyond;
2. Whether further efficiencies can be gained by adjusting the number of tiers and/or modifying tiers, and/or by adjusting the kilowatt hour (kWh) limit for the number of people in the household, to allow greater lower-income assistance, beyond what was contemplated in the Colton Report;
3. Whether economies of scale through cross-regional, or Statewide, processing of EAP benefit applications by the CAAs can be leveraged;
4. Whether more streamlined re-enrollment of EAP recipients, especially older citizens and the disabled, subject to conditions, would be feasible or beneficial;
5. Any other useful efficiencies and modifications that can be developed to maximize benefit to EAP recipients in greatest need and minimize overhead;
6. What safeguards can be implemented to ensure that EAP beneficiaries (customers on both default service offered by the NH Electric Utilities and competitive suppliers, including Community Aggregators) do not receive more monthly credit than the actual monthly expenditures on energy supply; and
7. The current status of the EAP Triennial Process Evaluations (under the auspices of the DOE), and any improvements that could be made to these Evaluations.

In response to these areas of scoping focus established by the Commission in its August 22, 2023 prehearing order, the DOE, in a filing made with the assent of the other parties, made a filing on September 22, 2023 offering comments regarding these scoping areas and a proposed procedural schedule. Hearing Exhibit 8. The Commission issued a procedural order on January 5, 2024, approving the parties' proposed procedural schedule, the first feature for which was a technical session on January 22, 2024, and re-affirming the Commission's scope established for this phase of the proceeding by its July 17, 2023 supplemental order of notice and August 22, 2023 prehearing order. Following an extension request by the DOE and the parties on January 18, 2024, the Commission ultimately fixed the date of the hearing for this phase of the proceeding as April 18, 2024, by a procedural order issued on February 6, 2024.

On March 6, 2024, the Utilities filed a joint Technical Statement delineating the Utilities' position regarding the matters at issue. Hearing Exhibit 11. Also on March 6, 2024, Ms. Amanda O. Noonan, DOE Consumer Service Director, filed a Technical Statement delineating the DOE's positions regarding the EAP matters under consideration. Hearing Exhibit 12.

The hearing for this phase of the proceeding was held as scheduled on April 18, 2024, at which Mr. Roger Colton offered oral testimony regarding his Report and other perspectives regarding the EAP, and representatives of the Utilities, CAAs, OCA, and the DOE appeared.

The positions of the Utilities and the DOE were largely congruent regarding matters of interest in this phase of the proceeding. Regarding the issue of safeguards to be implemented to ensure that EAP beneficiaries (customers on both default service offered by the NH Electric Utilities and competitive suppliers, including Community

Aggregators) do not receive more monthly credit than the actual monthly expenditures on energy supply, the Utilities and the DOE, through the Technical Statement of Ms. Noonan, concurred that the maintenance of the current EAP program feature, wherein the Utilities' individual default service rate is used as the proxy for the EAP discount in all instances, is an adequate safeguard, insofar as competitive, third-party rates, including community aggregators' rates, are generally comparable to the Utilities' default service rates, though there are variations over time. Hearing Exhibit 11 (Joint Utilities Technical Statement) at Pages 2 to 5 and Hearing Exhibit 12 (DOE Technical Statement) at Pages 4 to 5. In light of the technical complexities of tracking individual competitive rate offerings within the Utilities' billing systems, and the inherent safeguard of the Utilities' default service being the lowest-priced option under prevailing market conditions, the Utilities and DOE recommended that no modifications of the EAP program be made in this area, and that the Utility default service EAP-proxy price rule be maintained. *Id.*

Regarding the current status of the EAP Triennial Process Evaluations (under the auspices of the DOE), and any improvements that could be made to these Evaluations, the DOE recommended that the Colton Report be adopted as the Triennial Process Evaluation for the 2022 cycle, and that the EAP Advisory Board be given responsibility for the development of a new Triennial Process Evaluation process (presumably for 2025). Hearing Exhibit 12 at Pages 5 to 6; Hearing Exhibit 11 at Pages 7 to 8.

In addressing the question of whether more streamlined re-enrollment of EAP recipients, especially older citizens and the disabled, subject to conditions, would be feasible or beneficial, the DOE noted that EAP households whose heads are age 60 or older are currently re-certified every two years rather than one year, and that all other

households are re-certified annually. Hearing Exhibit 12 at Page 3. The DOE stated that due to income variability among younger households, these time parameters for re-certification should not be modified. *Id.*

In relation to the creation of Arrearage Management Programs (EAP Advisory Board Recommendation 5), the Utilities were supportive of the creation of such programs within the auspices of EAP, while the DOE cautioned against it, stating that "the Commission would be unable to provide additional funds to incorporate an AMP into the EAP program design without legislative approval." Hearing Exhibit 11 at Page 6; Hearing Exhibit 12 at Page 2. The DOE, while offering theoretical support for implementation of EAP Advisory Board Recommendations 6 and 7 (those relating to information-sharing regarding EAP eligibility with other social-services agencies in the State beyond the CAA's), also cautioned that there could be practical impediments to such an approach, centering on the CAAs' client-confidentiality requirements. Hearing Exhibit 12 at Page 2 to 3. (The Utilities declined to take a firm position on Recommendations 6 and 7). Hearing Exhibit 11 at Page 6.

For the remaining overall scoping areas of interest, which were: (i) Whether further efficiencies can be gained by adjusting the number of tiers and/or modifying tiers, and/or by adjusting the kilowatt hour (kWh) limit for the number of people in the household, to allow greater lower-income assistance, beyond what was contemplated in the Colton Report; (ii) whether economies of scale through cross-regional, or Statewide, processing of EAP benefit applications by the CAAs can be leveraged; and (iii) any other useful efficiencies and modifications that can be developed to maximize benefit to EAP recipients in greatest need and minimize overhead; the DOE and the Utilities presented a congruent position to the Commission in their filings and at the April 18, 2024 hearing. The Utilities and DOE each stated

that the Colton Report and EAP Advisory Board recommendations, as adopted by the Commission in the Order No. 26,870, adequately addressed the Commission's interest in improvements in these areas, and that no further modifications were necessary at the present time. Hearing Exhibits 11 and 12, *passim*. The OCA also recommended that no changes be made to the EAP program at the present time. See Transcript of April 18, 2024 Public Hearing (Tr.) at 178-181.

At the April 18, 2024 hearing, Mr. Colton responded at length to Commission inquiries regarding the contents of his Report, and his overall perspectives regarding the conduct of the New Hampshire EAP program. Tr. at 11 to 175. Of special interest to the Commission was Mr. Colton's statement in his Report that "Tier 2..." (the EAP Discount Tier offered to the highest-income EAP recipients, currently pegged at a 5 percent discount by Order No. 26,870) "...does present its problems. It may, at first, seem reasonable to split Tier 2 into two separate Tiers (Tier 2A with income between 150% and 200% of [Federal] Poverty [Level] and Tier 2B with income exceeding 200% of [Federal] Poverty [Level] up to 60% of State Median Income [SMI]). The problem with that option, however, is that if Tier 2 were split into two separate Tiers, a lower discount would then be offered to the new Tier 2B (200% of Poverty to 60% of SMI). However, the discount for Tier 2 has already been reduced to the point where further reductions present a genuine concern that the discount would be insufficient to attract needy participants at this income level to enroll in the program." Hearing Exhibit 3 at Bates Page 62. At the April 18 hearing, Mr. Colton clarified that the enhancement of Tier 2A benefit by a division from Tier 2B would enable Tier 2A to better achieve the income-burden target of 4 to 5 percent sought by Mr. Colton in his program design. Tr. at 26-27.

In response to Commission record requests made at hearing, the DOE, as part of responses filed with the Commission on May 23, 2024, provided additional details regarding the projections for the EAP Fund monthly balances for the 2024-2025 EAP program year, and the role of the \$7 million appropriated to the DOE by the Legislature for the EAP in HB 2023 (N.H. Laws 2022 346:4) in maintaining the EAP program's solvency. The DOE projected ongoing monthly EAP deficits ('net balances') beginning in May 2024, extending indefinitely through the end of September 2025, for a cumulative negative net balance of (\$2,420,612) by the end of the 2024-2025 EAP program year. See DOE Record Request Responses, May 23, 2024, Attachment RR-4, Pages 2 and 3, (Bates Pages 23 and 24) available here:

https://www.puc.nh.gov/Regulatory/Docketbk/2022/22-043/LETTERS-MEMOS-TARIFFS/22-043_2024-05-23_NHDOE_RECORD-REQUEST-RESPONSES.PDF

The DOE projected that the ongoing deficits would be covered by the \$7 million in funding from HB 2023, which was drawn down to \$5,100,000 by February 2024, with the following withdrawal schedule: July 2024, \$500,000; November 2024; \$500,000; January 2025, \$500,000; April 2025, \$750,000; and June 2025, \$500,000. This would leave an expected balance of \$2,350,000 in HB 2023 funding as of July 2025. DOE Record Request Responses, May 23, 2024, Attachment RR-5 (Bates Page 26).

II. COMMISSION ANALYSIS

In assessing potential improvements to the EAP program structure for the 2024-2025 program year and beyond, the Commission is given the charge to seek the most administratively efficient and best use of the EAP funds under RSA Chapter 374-F, specifically: RSA 374-F:3, V(a); RSA 374-F:3, VI; RSA 374-F:3, VI-a; RSA 374-F:4,

VIII(a) and (c); RSA 374-F:4, X; RSA 374-F:4, XI; RSA 374-F:4, XII; together with RSA 369-B:1, XIII.

In our assessment of the EAP program, we are informed and guided by the various requirements, and the restructuring policy principles incorporated by reference, in the above-listed statutes, and our own EAP Orders beginning with Order No. 23,980. *See, e.g.*, RSA 369-B:1, XIII (“The [C]ommission should design low-income programs in a manner that targets assistance and has high operating efficiency, so as to maximize the benefits that go to the intended beneficiaries of the low income program.”).

Having reviewed the filings made by the Utilities and the DOE, and the positions presented by the parties during this phase of the proceeding, we observe a number of areas that require further evaluation. While we concur that no changes can be made to the default-service proxy-price structure for EAP benefits at this time, we observe that competitive supply and community aggregation supply prices that are higher *or* lower than the utility default service price result in problematic outcomes. EAP beneficiaries on competitive supply or community aggregation with a rate *lower* than utility default service receive a larger than intended benefit, up to, potentially, receiving more money in bill credit than they pay in a month, which would of course be an extraordinarily perverse outcome since no ratepayer or EAP recipient should profit by receiving electric service. Second, we observe that the EAP recipient that chooses a competitive supplier or community aggregation supplier with a *higher* rate than utility default service could also inadvertently cause a perverse outcome, where the regular ratepayer continues to pay into the EAP program at the same rate, but the EAP recipient pays more than necessary. That outcome becomes more onerous if EAP recipients choose the highest community aggregation or competitive supply option

where they could conceivably, and unreasonably, pay more than they would have without being in the EAP program at all, an absurd and highly concerning outcome for New Hampshire's most vulnerable population. Examples aside, we make clear that that the EAP is intended to yield an affordable bill², not more and not less than the EAP recipient on utility default service receives. Further, as presented in the Joint Utilities Record Request response brief of May 21, 2024, we agree with the argument that participating in the EAP and choosing competitive supply are both voluntary activities, and therefore there is no restriction on customer choice in violation of Chapter 374-F.³ In light of this, by March 15, 2025, we require the utilities to propose changes⁴ to the EAP program to address the problem of community aggregation/competitive supply being unreasonably higher or lower cost than what is borne by EAP utility default service recipients.⁵ Next, we observe that there are serious delinquency issues in the EAP program. For example, only 17 percent of UES's EAP Accounts Receivable are current, and 68 percent of the EAP Accounts Receivable are past due 90+ days. In Liberty's case, 39 percent of the EAP Accounts Receivable are delinquent, with nearly 50 percent of the Accounts Receivable balance delinquent in 4th arrears. In Eversource's case, EAP delinquencies are at approximately twice the

² See Tr., Mr. Colton's April 18, 2024 hearing testimony, Pages 79 and 80.

³ Joint Utility Record Request Response, filed May 21, 2024, at Page 6: "Conversely, an argument could be made that participating in the EAP and choosing competitive supply are both voluntary activities, and therefore there is no restriction on customer choice in violation of Chapter 374-F."

⁴ For example, a monthly billing approach, regardless of ratepayers' other granular details, that ensures that the energy credit is never substantially different from the utility default energy service charges.

⁵ See Tr., Page 68, Mr. Colton's April 18, 2024 hearing testimony, wherein Mr. Colton summarizes two remedies. "You have a choice, you can either participate in the program and get the EAP discount or you can participate in the competitive market, but you can't do both... The second is to... offer the EAP participant population as a community aggregation. as an aggregated group to see what bids you get." See also Tr., Ms. Noonan's April 18, 2024 hearing statement, Pages 125 and 126: "In terms of options, I'll add another one for you to consider, which is how the program operated prior to the Commission issuing an order to apply the discount to the supply portion of the bill, and that was the discount was applied just to the delivery portion, not to the supply."

rate of non-EAP accounts.⁶ Additionally, per the Colton Report (Hearing Exhibit 3, Bates Page 40), “roughly 10% of EAP participants... consistently carry unpaid balances of more than \$1,000. Half of those (5%) are accounts... consistently between \$5,500 and \$6,000.” These facts call into question EAP recipient ownership and accountability in the program design. In return for receiving benefits, it is reasonable to expect EAP recipients to pay bills on time to stay on the program.⁷ In light of these facts, we require the Utilities to propose program changes by March 15, 2025, to resolve the aforementioned delinquency issues. We further note that Tier 6 is the highest electric discount in the country⁸ and requires extra scrutiny since it is 40 percent of all EAP benefits. Tier 6 is most likely to experience the default service issues highlighted above and has significant delinquency issues without any financial incentives to move off the program. At hearing, we heard that applicants who have lost their job are placed in Tier 6 and then not reviewed for 12 months.⁹ With low unemployment in New Hampshire, it is unlikely that recipients remain unemployed for such a length of time, which calls into question whether more frequent reviews should be required. Also, there is currently no time limit to the program, and at an 86 percent discount, there is a significant financial incentive to remain in the program. Further, with many recipients reported as zero income for an entire year due to the intake process, the calculation of the electric burden is overstated and thus the discount

⁶ Docket No. DE 23-073, May 2024 EAP reports (filed June 2024).

⁷ See Tr. Mr. Colton's April 18, 2024 hearing testimony, Pages 97 and 98: “We’re in essence, making a deal with you, and the deal is this: That we’re going to give you an affordable bill as the discounted rate, and, in exchange, you are going to pay that bill.”

⁸ See Tr., Mr. Colton’s April 18, 2024 hearing testimony, Pages 77 and 78; Mr Colton discusses the only region in the country that currently has low-income discounts in the 80-percent range, which are gas companies in metropolitan Chicago.

⁹ See Tr., Ms. Elizabeth Reynolds, CAA State Director, April 18, 2024 hearing statement, Pages 149 and 150: “The Tier 6 clients we see the most are people that have experienced job loss. They don’t have any income.... It tends to be households that are experiencing either a temporary situation or this is their situation...there’s a small percentage that stay in this category due to an inability to move out of it.”

needs further evaluation. Ultimately, we question the wisdom of providing nearly free electricity on these grounds and require the utilities to address these Tier 6 concerns and report by March 15, 2025.

We will permit the CAAs to explore information-sharing arrangements with other social-service agencies in our State, to the extent that they are able to independently, and encourage them to report to the Commission regarding these efforts at upcoming EAP budget review proceedings. We also concur with DOE that Arrearage Management programming is beyond the scope of our authority within EAP itself.

With respect to Tier 2, the Colton report shows that the average total energy burden for New Hampshire ratepayers is approximately 5 percent (page 5), the “commonly accepted definition of an affordable percentage of income (is) 6%” (Hearing Exhibit 3, Bates Page 6), and “statewide data shows that the bulk of the total home energy burdens in New Hampshire can be attributed to electric bills”, while the Tier 2 electric burden is 4.5 percent. In a similar vein, the Tier 2 burden is also lower than the burdens of the remaining EAP tiers. We also observe that program operational deficits have required periodic injections over the last few years to make EAP program payments.

To achieve parity in energy burdens across tiers, better align with energy burdens across the state, and for future sustainability of the program, we find it necessary to pare back the eligibility for the small (5 percent) EAP Tier 2 discount to be limited to those households with income between 150 percent and 200 percent of Federal Poverty Level (that is, the "Tier 2A" as defined by Mr. Colton), with reallocations of the savings to be made among remaining EAP recipients, as recommended by the Colton Report in the event that “the State needs to reduce the

overall cost of the EAP” (Hearing Exhibit 3, Bates Page 99). We note that the DOE is projecting to continue regular injections of HB 2023 appropriation monies into the EAP Fund Balance pursuant to the schedule shared in its Record Request response filed on May 23, 2024.

Based upon the foregoing, it is hereby

ORDERED, that for the coming EAP program year (October 1, 2024 through September 30, 2025, and beyond), and for the EAP program budgets to be implemented therein, subject to Commission review and approval, that Tier 2 EAP Discount eligibility is henceforth to be LIMITED to those EAP recipient households with incomes between 150 percent and 200 percent of the Federal Poverty Level; and it is

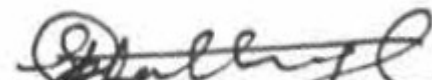
FURTHER ORDERED, that the Utilities will provide a consolidated report by March 15, 2025 that addresses the issues noted above requiring March 15, 2025 reporting. If a consultant is required, the Commission shall be notified by August 15, 2024, including the estimated cost.

FURTHER ORDERED, the Utilities shall provide a report by December 15, 2024 with the EAP account balance and projection for the ending balance for the 2024-2025 program year, including any program year injections from the New Hampshire Department of Energy.

By order of the Public Utilities Commission of New Hampshire this ninth day of July, 2024.



Daniel C. Goldner
Chairman



Pradip K. Chattopadhyay
Commissioner

Service List - Docket Related

Docket#: 22-043

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