

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

New Hampshire Code of)	
Administrative Rules)	
Chapter Puc 2000, Competitive)	DR16-853
Electric Power Supplier and)	
Aggregator Rules)	

COMMENTS OF NEW HAMPSHIRE LEGAL ASSISTANCE

Introduction

New Hampshire Legal Assistance is a non-profit legal services organization dedicated to fulfilling America's promise of equal justice by providing a variety of civil legal services to New Hampshire's low-income residents. These services range from simple legal information and advice to vigorous and thorough representation in all of New Hampshire's courts and before many of the local, state and federal agencies which play large roles in their lives.

Additionally, NHLA advocates on behalf of low-income residents as a class in administrative and legislative areas that affect their rights, such as regulation of public utility services. New Hampshire Legal Assistance appreciates the opportunity to comment on Docket No. DRM 16-853 as it significantly effects the rights of the low-income electric ratepayers of New Hampshire.

Low-income residents often spend a disproportionately high percentage of their income towards their utility costs. As such, it is particularly important that adequate consideration be given to how regulatory changes by the Public Utilities Commission may effect low-income

residents, and that reasonable legal protections be in place to ensure that low-income residents are treated fairly.

To that end, NHLA provides the below comments, edits, and suggestions on the draft Puc 2000 rules.

Mandatory Disclosures in CEPS terms of service

NHLA supports the revisions to the mandatory disclosures required to be made by each CEPS in its terms of service. All customers should be made aware of what potential fees and contractual obligations are being assumed through their enrollment with a CEPS. However, a few revisions to the provisions in this section may improve the notice provided to customers about these terms of service.

Notice of bill payment assistance available to low-income customers

Providing notice of potential bill payment assistance is a valuable protection for low-income ratepayers. However, because most social service agencies in New Hampshire do not service the whole state, we believe these notices would be far more effective if the notice related specifically to agencies that service the county in which the ratepayer receiving the notice lives.

Suggested Change (additions noted by **bold** text. Deletions noted by strikethrough text)

Puc 2004.02, (d) Each CEPS shall include the following in its terms of service:

- ...
- (5) For residential customers, a list of social service agencies and programs available to low-income customers for bill payment assistance **that service the county where the residential customer is located, along with contact phone numbers and website addresses for those programs.**

Right to rescind authorization upon receipt of Terms of Service

Although notice by e-mail may be elected by customers more frequently these days, many ratepayers in New Hampshire, particularly the low-income and elderly, may not have the

same access to the internet as other ratepayers. Thus those potential CEPS subscribers without internet access will be more likely to elect to receive communications by a CEPS through the mail. These customers should have the same opportunity to rescind authorization upon receiving the CEPS terms of service as customers who receive communications by e-mail. Whereas the business office of a CEPS may be located anywhere across the country, residential customers who elect to receive the terms of service for their agreement by mail should be given 8 (not 6) business days from the postmarked date of the terms of service to rescind the agreement. This will ensure these customers receiving communications by mail have at least the same 5 business days from the actual receipt of the terms of service in order to rescind if they so choose. This would provide those customers with an equal opportunity to review those terms of service and rescind if necessary as a customer who receives the terms of service electronically.

Suggested Change (additions noted by **bold** text. Deletions noted by strikethrough text)
Puc 2004.02, (d) (14) An opportunity for each residential customer to rescind authorization:

- ...
- b. Within ~~6~~ **8** business days from the postmarked date of the terms of service agreement being mailed to the customer by first class mail.

Applicability of EAP Discount to CEPS rate

NHLA proposes adding one more section to the mandatory disclosures within the terms of service. Participants in the state Electric Assistance Program (EAP) currently cannot apply the EAP discount to the supply portion of their energy bill if they contract with a CEPS. It is possible that the EAP program could change in the future so that discounts may be received on competitive supply portions of bills, but that is not the case in the present. Therefore, it is critical that low-income EAP participants understand that contracting with a CEPS to supply their energy could significantly reduce the benefit of their EAP discount, and that reduction in their

discount could outweigh any savings that a lower CEPS supply rate would otherwise have provided to them. A review of the current terms of service of CEPS registered CEPS in New Hampshire reveals that some, but not all, already disclose this information to prospective customers. But there is currently no PUC rule requiring this disclosure to be made. NHLA proposes that a new section be added to Puc 2004.02 (d) to require such a disclosure be made in the Terms of Service of each CEPS., as well as the authorization for a CEPS to submit on behalf of a customer a change in the customer's selection of a supplier.

Suggested Change (additions noted by bold text. Deletions noted by strikethrough text)
Puc 2004.02 (d) (18) An explanation as to whether or not the CEPS will apply the Electric Assistance Program (EAP) discount for low-income EAP participants to the CEPS supply rate(s). If the CEPS supply rate(s) will not apply the EAP discount, this disclosure should be made in bolded text of a minimum 2 points larger than the font in the rest of the Terms of Service.

Customer Authorization Required

An additional requirement to the customer authorization provisions may also help protect low-income customers enrolled in EAP from losing the full benefit of their enrollment in the EAP program. The customer authorization contained in writing could add a notice that, not only is the new supplier not affiliated with the utility, but also an explanation as to whether the new supplier will apply the EAP discount to the CEPS rate. This additional EAP notice could also be added to the verbal customer authorization requirements.

Suggested Change (additions noted by bold text. Deletions noted by strikethrough text)

Puc 2004.08 (d) (7) Contain a statement that the new supplier is not affiliated with the customer's utility and an explanation as to whether or not the CEPS will apply the Electric Assistance Program (EAP) discount to the CEPS supply rate(s) for low-income EAP participants. If the CEPS supply rate(s) will not apply the EAP discount, this disclosure should be made in bolded text of a minimum 2 points larger than the font in the rest of the authorization.

Puc 2004.08 (f) (2) Clearly state that the supplier is not affiliated with the customer's electric utility and provide an explanation as to whether or not the CEPS will apply

any Electric Assistance Program (EAP) discount to the CEPS supply rate(s) for low-income EAP participants.

Price Disclosure

While the currently proposed rules require CEPS to provide and update information on a commission-maintained shopping comparison website, there is currently no provision for commission to penalize false information provided to that comparison shopping website. In preparation for drafting these written comments, NHLA discovered some instances where information listed by CEPS on the commission's website provide contrary information to what is included in the Terms of Service. Specifically, at least one CEPS claimed on the commission's website it had a termination fee of \$50, whereas the terms of service for the same advertised rate noted an early termination fee of \$100. NHLA believes that the commission should have a method of enforcing the requirement for the CEPS that provide accurate information on the commission's comparison shopping website. The website should not be utilized as a CEPS tool to mislead customers about the actual terms of service, but without an enforcement provision, such a risk is present.

Limitations on Permitted Solicitation

NHLA supports reasonable limitations on solicitation, including the prohibition on unsolicited solicitations to cellular telephone numbers as stated in Puc 2004.11 (c) (1) c. Contrary to some of the verbal public comments made regarding this proposed rule during the public comment hearing, many of New Hampshire's residents do use prepaid, "pay as you go" cellular phone plans where they are charged for the minutes used. Many of those residents are low-income, and are the least able to absorb the additional cost they would bear if subjected to these unsolicited calls which would use up their phone minutes. For this reason, NHLA strongly supports the inclusion of the proposed language of Puc 2004.11 (c) (1) c. in the final rules.

Where home solicitation by CEPS is allowed, those residents should be made aware of the possible consequences of using a CEPS as an energy supplier if the resident currently receives a discount from the Electric Assistance Program. NHLA suggests an addition to Puc 2004.11 (e) to require disclosure of such possible consequences.

Suggested Change (additions noted by **bold** text. Deletions noted by strikethrough text)

Puc 2004.11 (e): Unless requested by the potential customer no less than 24 hours in advance, no CEPS or aggregator, or its representative, shall solicit a potential residential customer in person at the customer's residence.

(1) When a solicitation is made by a CEPS or aggregator, or its representative, at a potential residential customer's residence, the CEPS, aggregator, or representative shall determine if the resident is currently receiving an Electric Assistance Program (EAP) discount on their electric bill, and

(2) If the potential residential customer does receive an EAP discount, the CEPS, aggregator, or representative shall explain whether or not the Electric Assistance Program (EAP) discount applies to the offered supply rate(s).

Conclusion

New Hampshire Legal Assistance would like to thank the Commission for this opportunity to provide comments in this rulemaking process. We hope that the Commission considers these comments and the issues facing low-income residents of New Hampshire when developing its final rules on this issue.