

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 19-197**

**Electric and Natural Gas Utilities Development of a Statewide,  
Multi-Use Online Energy Data Platform**

**Order Clarifying Order No. 26,589**

**O R D E R N O. 26,644**

**June 24, 2022**

In this order the Commission clarifies the process and filing requirements for the statewide multi-use online energy data platform.

**I. PROCEDURAL HISTORY**

On March 2, 2022, the Commission issued Order No. 26,589 (Data Platform Order) which approved a settlement and established a process for Commission oversight over the development of the statewide data platform. On March 11, 2022, the Office of Consumer Advocate (OCA) filed a motion for rehearing and for clarification of the Data Platform Order. On March 21, 2022, the Commission issued a procedural order allowing additional time for parties to respond to the OCA motion.

On March 25, and April 1, 2022, the Department of Energy (DOE) filed responses to the Commission's procedural order and to the OCA motion. On April 1, 2022, the five New Hampshire electric and natural gas utilities filed a joint motion to schedule a prehearing conference in order to clarify a number of issues concerning Commission oversight of the data platform development process (Joint Motion). The Joint Motion stated that DOE and OCA supported the motion. On April 4, 2022, DOE filed a letter listing additional issues for consideration by the Commission at the requested prehearing conference. On April 8, 2022, the Commission issued Order No. 26,607 denying OCA's motion for rehearing and scheduling a prehearing conference

on June 3, 2022. On May 27, 2022, the parties filed a Prehearing Conference Memorandum setting out specific recommendations for clarification of the Data Platform Order. The Commission held the prehearing conference on June 3, 2022.

## **II. POSITIONS OF THE PARTIES**

### 1. Joint Utility Motion for Prehearing Conference

Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty; Public Service Company of New Hampshire d/b/a Eversource Energy; Unil Energy Systems, Inc.; Liberty Utilities (EnergyNorth Natural Gas) Corp d/b/a Liberty; and Northern Utilities, Inc. (collectively the NH Utilities), parties to Docket No. DE 19-197 filed a Joint Motion on April 1, 2022, requesting that the Commission schedule a prehearing conference to clarify issues relating to the directives in the Data Platform Order.

The NH Utilities stated that after discussion they concluded that they need additional information and clarification to fulfill the various directives of the Data Platform Order pertaining to the “additional Commission involvement.”

The NH Utilities identified five items for clarification: (1) the cost-benefit methodology; (2) the registration process, to ensure current best privacy and security practices; (3) what the parties are to submit, and how it should be submitted, presented, or filed; (4) whether any Commission action will be necessary after filing the customer survey data before proceeding with RFP preparation; and (5) what the software survey should entail, and any filing requirement.

The DOE joined in the Joint Motion and provided its own list of five items from the Data Platform Order that require clarification: (1) request for proposal (RFP) criteria other than lowest cost; (2) provision of necessary technical leadership for software development; (3) cost-effectiveness methodologies; (4) use of a survey to

forecast platform usage; and (5) methods for obtaining information about existing software and associated costs.

## 2. Prehearing Conference Memorandum

On May 27, 2022, the parties filed a Prehearing Conference Memorandum (Memorandum) in which they developed further responses and recommendations concerning the issues they had identified as needing clarification. The Commission reviewed the Memorandum in detail at the June 3, 2022, prehearing conference.

### A. Cost-Benefit Methodology

The parties argued that a cost-benefit analysis would need to evolve as the data platform developed and that not all services and uses of the data platform can be known ahead of its operation in the marketplace. The parties suggested that the Commission could rely on cost-benefit analysis already done on similar platforms in other jurisdictions. Attachment A to the Memorandum was a copy of the Green Button Cost-Benefit Analysis Report submitted to the Ontario Ministry of Energy by Dunsky Energy Consulting dated October 2017 (Dunsky Report). The parties recommended that rather than incur the significant costs and delay of developing a new cost-benefit methodology or analysis, the Commission should accept the parties' analysis along the lines of the Dunsky Report but use the broader list of benefits and costs contained in Attachment B to the Memorandum.

### B. Interface

The parties argued that the data fields identified in Appendix B to the Settlement Agreement submitted on April 28, 2021, (Settlement) were sufficient to describe the customer interface with the Platform API. The parties also observed that the interface will be further modified as development proceeds and offered at the prehearing conference to provide a mock-up style presentation of the interface.

### C. Registration and Security

The parties argued that security requirements and industry standards continue to develop and thus those aspects of the data platform may also change. The parties included Attachment C to the Memorandum which depicts the current registration process for platform users and describes an escalating security requirement depending on the level of security risk the user presents. The parties asserted that this registration process meets current security requirements.

### D. Customer Survey

The parties argued that because the platform does not exist yet, it is difficult to conduct surveys on its future use. The parties included Attachment D to the Memorandum which is a survey by Smart Energy Consumer Collaborative published in September 2018. The parties urged the Commission to accept this survey to indicate customer expectations in lieu of requiring new surveys by the NH Utilities.

### E. Software Survey

The parties indicated that information on data sharing methods being implemented in other jurisdictions would assist the parties in developing the data platform. They included a chart in the Memorandum summarizing data platforms under development in seven states and in Ontario, Canada. They also included information on vendors providing technical assistance with these data platforms.

### F. RFP Review

The parties argued that the Commission does not generally review RFPs before issuance and that the Settlement in this case gave sufficient detail for the Commission to approve issuance of an RFP without review of the specific language and details of the RFP. If the Commission wishes to review the RFP the parties recommended a high level review of scope and not a detailed review of specific terms of the RFP. The parties

asked that the Commission clarify that lowest cost bidder is not the only factor to be considered in selecting a winner of the RFP.

#### G. Status Conference

The parties argued that, given the information provided in the Memorandum, the Commission may no longer need a status conference. Further, the parties are concerned that a status conference may delay development of the data platform. Instead of a status conference, the parties suggested that a meeting every other month to give the Commission the status of the data platform development may be a better way of keeping the Commission informed.

#### H. Cost Recovery

The NH Utilities asserted that they are entitled to cost recovery for any preliminary work on the data platform as well as the platform development costs. They referenced the Settlement language allowing recovery of “initial design and RFP development along with all consultants, operating, and capital costs” so long as those costs are prudently incurred and reasonable. Settlement at 15. The NH Utilities asked that the Commission allow them to record such costs as a regulatory asset or otherwise make clear that the costs are recoverable.

### **III. COMMISSION ANALYSIS**

Portions of the statutory provisions requiring Commission involvement with the statewide data platform are quoted below:

#### **RSA 378:51 Online Energy Data Platform Established. –**

[...]

II. The **commission** shall open an adjudicative proceeding within 90 days of the effective date of this subdivision, to which all electric and natural gas utilities shall be mandatory parties, to determine:

(a) Governance, development, implementation, change management, and versioning of the statewide, multi-use, online energy data platform.

(b) Standards for data accuracy, retention, availability, privacy, and security, including the integrity and uniformity of the logical data model.

(c) Financial security standards or other mechanisms to assure compliance with privacy standards by third parties.

III. The **department of energy** shall defer the implementation of the statewide, multi-use, online energy data platform pursuant to paragraph I if the **commission** determines that the cost of such platform to be recovered from customers is unreasonable and not in the public interest.

IV. The **department of energy** may adopt additional rules pursuant to RSA 541-A as necessary to implement this section. (Emphasis added.)

### **378:52 Platform Requirements. –**

The utilities shall:

I. Design and operate the energy data platform to provide opportunities for utilities, their customers, and third parties to access the online energy data platform and to participate in data sharing.

II. Require, as a condition of accessing the online energy data platform, that a third party complete a qualification and registration process to ensure that any customer data downloaded from the platform remains in a safe, secure environment according to data privacy standards established by the **commission**. (Substituted commission for department, effective July 26, 2022, HB 1285.)

III. Administer the online energy data platform in a manner consistent with RSA 363:38.

(Emphasis and legislative changes added)

### **378:54 Cost Recovery. –**

The utilities may:

I. Impose reasonable charges to third parties for access to data via the multi-use, online energy data platform; and

II. Otherwise recover costs from customers in a timely manner as approved by the **commission**. (Emphasis added.)

The Commission oversight described in the Data Platform Order, and clarified in this order, is designed to assist the Commission in making determinations concerning: (1) whether the proposed data platform meets the elements of RSA 378:51,

II (a), (b), and (c); (2) whether the costs of the data platform are reasonable and in the public interest, RSA 378:51, III; and (3) how those costs should be recovered, RSA 378:54, II.

As a result of: (1) review of the Joint Motion and DOE letter and the Prehearing Conference Memorandum; (2) discussion at the prehearing conference; and (3) review of the additional information filed by the parties following the prehearing conference; we issue the following clarifications regarding the procedural schedule and deliverables for this docket.

#### A. Cost Benefit Analysis

The parties may rely upon the Dunsky Report found at Attachment A to the Memorandum. The Commission will require the parties to update the Dunsky Report methodology with more recent and more geographically relevant assumptions, i.e., related to New Hampshire or New England. The updated cost-benefit analysis will be due ten business days before the Data Platform RFP Hearing. Further, the cost-benefit analysis will present sensitivity analysis to reflect the impact of a range of assumptions for variables such as discount rates and participation rates across different rate classes, and third-party participants.

#### B. Interface

The screen shots of the proposed customer interface of the API presented at the prehearing conference were helpful in understanding the customer and third-party experience with the data platform. The PowerPoint presentation submitted after the prehearing conference was helpful. The Commission, however, asks that the parties provide a working model at the Status Conference that demonstrates navigation.

### C. Registration and Security

The additional detail on the registration process presented in Attachment C to the Memorandum, together with the description at the prehearing conference, of the risk level and security level applied to registrations, satisfies the concerns described in the Data Platform Order. The Commission will not require further detail on registration and security prior to the Status Conference. The material on industry cyber security standards presented in filings following the prehearing conference is helpful and should guide the continued development of the registration process in the Data Platform. No further submission is required prior to the Status Conference.

### D. Customer Survey

After discussing the likely users of the data platform with the parties at the prehearing conference, the Commission agrees that individual end-user customer surveys are not likely to be helpful in forecasting use of the Data Platform. Instead, the likely users of the data platform appear to be third-party energy service providers. The survey submitted as Attachment D gives some high-level indication of interest by various users of a data platform, but it is not New Hampshire specific. As a result, the Commission asks that the parties contact service providers and other likely users to determine a level of interest in New Hampshire for purposes of estimating benefits for the cost-benefit analysis. The Commission asks that in gathering information on likely users the NH Utilities determine how the benefits will accrue to the different customer segments and quantify the shares across different customer segments based on more recent information (than relied upon by the five-year-old Dunskey Report). The Commission will not require formal surveys and will accept data gathered by other sources that reasonably applies to New Hampshire or New England. This information should be provided at the Status Conference.

### E. Software Survey

The Commission found the summary of the technology related to Green Button Connect, or similar data platforms, in use in other jurisdictions contained in the Memorandum helpful. The Commission asks the parties to update the information on other technology available and in use at the Status Conference.

### F. RFP Review

The parties raised concerns about the criteria for selection of a winning bidder following the RFP process. Although the Commission continues to consider lowest cost to be the primary factor in selection of a bidder, assuming that a robust process has been used to identify qualified bidders, the Commission will consider other factors that the parties may identify so long as those factors will lead to a successful and efficient development process. When the Commission reviews the RFP for the data platform API at the Status Conference it will review for scope, and also for the scoring and weighting criteria for selection of a winning bidder. Once approved, those RFP criteria will govern the parties' selection of a bidder to develop the platform API.

### G. Status Conference

The Commission has considered the suggestions for additional conferences from the NH Utilities, as well as the cautionary statements regarding regulatory burden and Commission authority from OCA and DOE. The process shall remain as described in the Data Platform Order. The parties shall finalize the Data Platform Design and the RFP and inform the Commission when they are ready for a Status Conference. At the Status Conference, the Commission shall consider the final Data Platform Design and the scope and scoring of the RFP. The other deliverables from the parties at the Status Conference are explained in the prior paragraphs B-F above.

Following the Status Conference, the Commission will issue an order concerning the proposed RFP. If the RFP is approved, the parties shall issue the RFP and select a winner. The parties will then request a final hearing on the RFP and, if the RFP winner is approved by the Commission, shall commence work on the front-end Data Platform API.

#### H. Cost Recovery

The Commission appreciates the time and effort expended by the parties in developing the Data Platform Design and in responding to the Commission's concerns. We are pleased that the NH Utilities and other parties have been able to support efforts so far with existing staff and within normal operating budgets. Although the Commission denies the request to record costs on additional preliminary work as a regulatory asset, we clarify that recovery of those preliminary development costs are subject to prudence review and approval by the Commission. We also clarify that if, in the future, any of the NH Utilities believe that the effort in this docket will require outside resources, they should alert the Commission to those needs, estimate costs, and account for those costs separately going forward.

The Commission considers the utility specific API's to be building blocks, or subcomponents, of the Data Platform to be reviewed at the Status Conference. To expedite the process, prior to the Status Conference, the Commission offers each utility the opportunity for a hearing to review their utility specific API RFPs to ensure alignment on scope but does not require it. After the winning bidder is selected by each utility, Commission approval is required before work begins. The utility may request a hearing at any time prior to the Data Platform RFP Hearing; alternatively, the review can occur at the Data Platform RFP Hearing. The Commission reminds the NH Utilities that such utility-specific costs may only be recovered if prudently incurred

and reasonable. As with any costs for which recovery is requested from ratepayers, the costs must be separately accounted for and shall be subject to audit and Commission review.

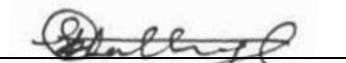
For clarity, the hearings are the same as those scheduled in Order No. 26,589; there will be a Status Conference covering B-F above, followed by the Data Platform RFP Hearing for approval of the final contract and vendor.

**Based upon the foregoing, it is hereby**

**ORDERED**, that the Data Platform Order No. 26,589 (March 2, 2022) is clarified as described herein.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of June, 2022.

  
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Daniel C. Goldner  
Chairman

  
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Pradip Chattopadhyay  
Commissioner

  
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Special Commissioner

# Service List - Docket Related

Docket# : 19-197

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