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March 28, 2022

Mr. Daniel C. Goldner, Chair
New Hampshire Public Utilities Commission
21 South Fruit Street
Concord, NH 03301

RE: DRM 21-142: Community Power Coalition of New Hampshire Petition for Rulemaking to Implement RSA 53-E for Community Power Aggregations by Stakeholders

Dear Chair Goldner,

Please find enclosed the Reply Comments of Colonial Power Group, Inc. ("CPG") regarding the matter referenced above. CPG provides energy advisory and procurement services to communities developing and maintaining municipal aggregation programs. Since its formation in 2002, CPG has served as a municipal aggregator to more than 80 programs in Massachusetts.

If you have any questions about this matter, please do not hesitate to contact me.

Sincerely,

Stuart Ormsbee

DRM 21-142

Community Power Coalition of New Hampshire Petition for Rulemaking to Implement RSA 53-E for Community Power Aggregations by Stakeholders

Reply Comments of Colonial Power Group, Inc.

Colonial Power Group, Inc. ("CPG") provides reply comments below to offer additional perspective and reaction to initial comments submitted on or about March 14, 2022 by other stakeholders in this docket. CPG attended and participated in a stakeholder meeting facilitated by the Department of Energy and held on March 23.

Comments of Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty; Public Service Company of New Hampshire d/b/a Eversource Energy; and Unitil Energy Systems, Inc. ("the NH Utilities")

I. General Reply Comments

The NH Utilities reference the stakeholder process in Docket No. DE 19-197, wherein the NH Utilities and several other stakeholders reached agreement on a settlement reflecting "consensus for providing anonymized customer information for presentation in an online data platform." The NH Utilities urge that the Commission "should assure that its rules align with the standards agreed upon for the data platform, both in terms of the actual data to be provided and the manner in which it is secured and exchanged." CPG did not participate as a stakeholder in Docket No. DE 19-197 and was not a party to the settlement agreement. CPG supports collaborative efforts to standardize data definitions and methods of exchange. Nonetheless, CPG hopes that decisions on the actual data to be provided to aggregators pursuant to this rulemaking can *build upon* but not be limited by the groundwork laid in DE 19-197. The customer data items included in the draft rules of the petition reflect the information items deemed by municipalities and CCA proponents to be valuable and/or necessary for a well-functioning aggregation program based on planned program objectives. CPG did not view this as an "end-around" but rather a targeted set of objectives specific to aggregation.

In their comments the NH Utilities make several general statements about information that is "unnecessary" for aggregations, pointing to their extensive experience supporting aggregations. They reference information provided by utilities to aggregations operating in Massachusetts. CPG urges caution. CPG understands the NH Utilities' comments to relate to certain and specific information items that would impose material cost to provide. CPG cautions the Commission not to misread the NH Utilities' comments as a recommendation to reject any information items not provided to aggregators in Massachusetts, which CPG does not believe is their intent. The Commission, of course, must make final determinations on information exchange based on the specific provisions of RSA 53-E and its own requirements and practices with respect to

decision making. The experiences in Massachusetts provide useful reference to facilitate cost-effective, best practices in New Hampshire. However, as a general matter, CPG cautions not to assume that the current practices in Massachusetts reflect careful and balanced consideration using the same standards of review as the Commission would use.

Further, the NH Utilities opinions as to what is "necessary" for the effective and successful operation of an aggregation program do not necessarily reflect the full complement of goals and objectives of these programs. The utilities are not party to the varied conversations that take place across dozens of municipal committee meetings as they contemplate supply service options and other energy service offerings to further local goals and objectives. Such conversations often reach beyond simply seeking low, stable pricing and buying renewable energy credits, which is all that the utilities see as outside observers. In Massachusetts, such discussions are tempered by the information the utilities are willing to provide. CPG urges the Commission to 'hear-out' the information requests of the parties that will be designing and implementing aggregation programs and ask that the Commission make determinations in a granular way as to which individual information items can be provided in a cost-justified manner and which may ultimately impose costs on utility ratepayers that it deems material.

To be clear, the NH Utilities have invested considerable time and thought to help facilitate the launch of municipal aggregation in New Hampshire. The NH Utilities do not appear to be opposing the provision of any information not also provided in Massachusetts. Importantly, they are also agreeing to provide certain additional information extremely valuable to aggregators within their Core Functionality Approach (importantly, identifying information for net energy metering customers and residential customers that participate in electric assistance programs). CPG also respects and echoes the prudency to establish rules that provide for cost-effective, near-term deployment of aggregation. CPG therefore recommends an approach it included in its initial comments (please refer to item #4 of CPG's Comments filed on March 14). CPG suggests the Commission place information items into three categories in the rules: (1) items that will be provided once the rules go into effect, (2) items that the utilities will provide beginning on a specific date in the future, and (3) items that can be provided for a fee.[1]

II. Purchase of Receivables

In their initial comments, the NH Utilities recommend striking section Puc 2205.16(e) which would establish a timeline for the utilities to file proposed purchase of receivables plans with the Commission. The NH Utilities note that the provision is "Unnecessary, as utility proposals are in progress." When asked at the March 23 stakeholder meeting about the expected timing of such filings, none of the utilities offered specific dates or even an approximate timeline. Representatives from two electric supply companies attending the March 23 meeting confirmed the broad understanding of stakeholders that implementation of purchase of

[1] CPG understands it may be necessary to make certain exceptions for content or additional delay for certain utilities given unique circumstances.

receivables programs is necessary before aggregations can garner interest from the supplier community.

The latest revisions to RSA 53-E through House Bill 315, including the requirement for utilities to file purchase of receivables programs, was signed by the Governor on September 7, 2021. The utilities were certainly aware that CPA proponents would be moving as swiftly as possible to initiate the current rulemaking process. A fair bit of time has already passed. The general expectation is for Eversource and Unitil, at least, to file program plans that are near carbon copies for programs they've administered in Massachusetts for several years. It therefore seems perfectly reasonable for the Commission to set a specific date for Eversource and Unitil to file program plans within 90 days of a Commission order in this proceeding (the occasion of which is likely still several weeks away). CPG is indifferent whether the deadline to file is included in the rules or in the alternative included as an express directive included in an order issued by the Commission. CPG is very concerned the utilities will not act in a timely manner unless specifically ordered by the Commission.

Comments of Axsess Energy Group ("Axsess")

I. RSA 53-E provides for local authority for the selection of opt-out default service programs

Axsess asks that the Commission establish rules that allow aggregation programs to operate only on an opt-in basis and that it preclude any option for an opt-out program. Notwithstanding whether the arguments presented by Axsess have validity or merit, state statute is indisputably clear that any municipality or county may aggregate retail electric on an opt-out basis. Decisions regarding program design reside expressly with the municipality or county and not with the Commission, aside from the Commission confirming that a plan developed by a municipality or county conforms to the requirements of relevant statutory provisions. Local option for an opt-out program is firmly established in multiple provisions throughout RSA 53-E, including for example 53-E:7 paragraph I: "The governing body of a municipality or county may submit to its legislative body for adoption a final plan for an aggregation program or any revision to include an opt-out aggregation program, to be approved by a majority of those present and voting."

II. Potential conflicts with third-party supply agreements

Axsess highlights the potential for a customer enrollment that unintentionally interferes with a contract that a customer may have signed with a third-party supplier. Neither the utilities nor aggregators have any visibility to such third-party contracts. The issue is a matter of timing. For example, a commercial customer currently taking utility default service may sign a third-party supply contract with a supply term that begins three months in the future. Within the same general time frame, the municipality where the commercial customer is located is preparing for

its program launch, which includes sending opt-out notices to all customer accounts eligible to participate in the aggregation program. At that point in time the commercial customer meets the definition of an eligible customer because it is still taking utility default supply (notwithstanding its pending forward contract). If both the customer and any energy broker or consultant working with the customer are somehow both unaware of the aggregation program and both fail to understand the importance of opting out, it is true that the commercial customer will most likely get enrolled in the aggregation program before the customer is enrolled with its third-party supplier as it intended. As just noted, customer education and awareness are key, and RSA 53-E appropriately emphasizes its importance in setting out requirements for the aggregator. Upgrades to utility systems to accommodate future-dated account enrollments might solve this conflict, but such system changes would be material and far-reaching and therefore fall outside the scope of this rulemaking. CPG offers two rule modifications to facilitate proactive efforts to lessen the incidence of contract interference.

First, as an operational best practice managing municipal aggregations in Massachusetts, CPG will obtain one 'final' updated list of eligible customers from the utility at the conclusion of the opt-out notice and just prior to account enrollment. CPG will perform a side-by-side comparison of the most current list to the list of eligible accounts that did not opt-out (based on a list obtained from the utility many weeks earlier). CPG will then remove from the enrollment list any accounts that are no longer on utility default service. While an imperfect substitute to a more advanced utility account enrollment system, CPG believes it significantly cuts-down on inadvertent enrollments such as the situations noted by Axsess. Upon more careful review, CPG now notes that section Puc 2204.03 as proposed might limit CPG's ability to obtain 'final' updated lists from utilities. Thus, to facilitate CPG's operational practice, for itself and others, CPG recommends rewriting Puc 2204.03(d) as follows:

> (d) The municipality or county may request to have such information provided by the utility updated to the most recent month available. The utility shall provide such information to the municipality or county upon request at any time the municipality or county is preparing the required written notification pursuant to RSA 53-E:7 paragraph III and again when it is preparing the final list of accounts to enroll after the conclusion of the notice period, but not otherwise more frequently than once every 3 months.

Second, Axsess questions the effectiveness of notifying customers by mail. For starters, RSA 53-E:7 paragraph III expressly requires that aggregators "shall mail *written* notification" to eligible customers. Nonetheless, it does not preclude aggregators from also using additional or supplemental methods. In other states, CPG has sought to also obtain from utilities the email addresses of eligible customers. Inclusion of customer email recognizes the reality that many consumers vastly prefer electronic correspondence over printed mail. This shift in preference is only likely to grow along with increasing skepticism over the ability of mail service to provide effective and reliable notice. The NH Utilities have already identified the customer email address as a data field in the Logical Data Model in DE 19-197 as well as an item included in their Core Functionality Approach in this proceeding. CPG recommends also including the customer email address as an additional information item in Puc 2204.03(a).