

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Docket No. DE 23-003

LIBERTY UTILITIES (GRANITE STATE ELECTRIC CORP.
D/B/A LIBERTY

Proposed Purchase of Receivables Program

CPCNH COMMENTS ON HEARINGS EXAMINER’S REPORT
AND RECOMMENDED ORDER

January 12, 2024

Pursuant to the Procedural Orders issued by the New Hampshire Public Utilities Commission (“Commission”) on September 1, 2023 and December 29, 2023, the Community Power Coalition of New Hampshire (“CPCNH”) respectfully submits these Comments on the Hearings Examiner’s Report and Recommended Order filed on December 22, 2023 (the “Report”).

1. CPCNH supports the comments and exceptions submitted by Liberty in its filing in this docket on this same date.

2. CPCNH further suggests amending the proposed Report at section 5 on page 11 to add the text as shown in green on the next page. This addition pertains to recognizing the fact that the inclusion of POR into Liberty Tariff Terms & Conditions for Suppliers (T&Cs) and Supplier Agreement(s) (SA) necessarily requires the incorporation of Community Power Aggregations (CPAs) into those documents, which *may* in turn necessitate reconciling conflicts between those T&Cs and SAs with Puc 2200 rules and RSA 53-E. See Exhibit 3 at 6 for further explanation.¹

¹ In its testimony CPCNH made note of this issue stating: “CPCNH recommends that resolution of tariff and supplier agreement text largely occur after the basic structure and parameters of the POR program are approved by the Commission. In a round two data response, Liberty did provide a draft supplier agreement customized for CPAs integrating POR. CPCNH appreciates Liberty’s good faith effort to conform a supplier agreement for CPAs to the Puc 2200 rules and RSA 53-E. Significant aspects of this draft are beyond the noticed scope of this proceeding and

5. Tariff and Supplier Services Agreements

The Settlement Agreement also requests that this proceeding be continued into a separately noticed phase to consider amendments to Liberty's Electric Supplier Services Master Agreement and Electricity Delivery Service Tariff necessary to implement the POR program. Exh. 5 at Bates pages 4–5. The parties agree that changes to Liberty's tariff and supplier services agreements are necessary to implement the POR program and that additional public notice would be advisable due to the scope of the Commission's Notice. There was extensive testimony by witnesses and discussion by counsel for the parties around the proposed second phase of the docket noting that making changes to Liberty's tariff and supplier agreement to incorporate POR also necessitated incorporating CPAs in those documents and related changes may need to be considered arising from such incorporation. See Tr. at 32-44. The Commission's Notice was limited to whether Liberty's proposed POR program was consistent with the requirements of RSA 53-E and Puc chapter 2200. Notice at 2. It is reasonable to separately notice an additional phase of this proceeding to consider changes to Liberty's delivery service tariff and Electric Supplier Services Master Agreement.

3. The relevant transcript references in the above are too lengthy to fully cite here but a few key points are highlighted here. From myself on behalf of CPCNH (Tr. at 32):

I'll offer that one thing that's not really addressed in the Settlement is whether there needs to be a new notice for the second phase.

And continuing (Tr. at 34):

I think early on the concern in technical sessions and settlement discussions was that -- that it's not apparent how you would simply change the rules to bring in POR without addressing those other things. And the original notice didn't really anticipate that there would be significant rewrites to the supplier agreement and the terms and conditions in the

seem to be unrelated to POR but would be generally applicable to CPAs, so there are likely other parties that would have an interest in these issues.”

tariffs that would apply. Right now, they're all written to just apply to CEPS. And, so, when you extend them to apply to CPAs, we believe it's appropriate to provide, and safer, in terms of the legal process, to provide an additional notice as soon as possible.

And also from me (Tr. at 38):

“... to the extent those changes [incorporating POR in the tariff and supplier agreements] might implicate more things broadly about how CPAs are brought into the supplier agreement and the Ts&Cs, I do think it would be advisable for the notice to indicate the possibility of significant updates to the terms and conditions, as how do they apply in general to Community Power Aggregations.

From Attorney Ladwig for the Department of Energy (Tr. at 38):

I'll just echo a lot of what Mr. Below said. Updates to the terms and conditions and trading partner agreements for each of the utilities were always going to be -- at least were contemplated in all of the proceedings from the beginning, as we started discussing POR, it became clear that the program mechanics of POR and the updates to the terms and conditions and the supplier trading agreements were very separate issues, and both needed to be addressed to implement POR.

And from Attorney Sheehan for Liberty (Tr. at 41-42):

I do think notice is required, or is certainly a good idea. There is some tension in this room over what the tariff changes and contract changes would be. Is it simply to incorporate POR and have firm guardrails around that? Or, as Mr. Below said, should we do a more comprehensive incorporation of community power while we're at it? There's a good argument for both. I don't have a position, really. Part of me says "We're going to have to get there anyway." So, to the extent the 2200 rules have informed changes to the supplier agreements, now is as good a time as any.

4. In order to provide potentially affected or interested parties good notice that Liberty's Tariff T&Cs for suppliers and TPA will be incorporating POR and CPAs and Competitive Electric Power Suppliers (CEPS) when serving CPAs into the provisions of these documents for the first time ever, CPCNH suggests, if possible and appropriate, that that the title of the docket in the Supplemental Order of Notice be supplemented along the following lines:

DE 23-003

LIBERTY UTILITIES (GRANITE STATE ELECTRIC) CORP. d/b/a LIBERTY

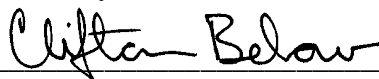
Proposed Purchase of Receivables Program and Revisions to Electric Supplier Services Agreement and Delivery Service Tariff incorporating Municipal and County Aggregations

5. CPCNH recommends adding to the text of the second paragraph of the proposed Supplemental Order of Notice as follows:

The Commission denied the Settlement Agreement, but approved parts of the POR program described therein, and continued this proceeding to a second phase to further develop inputs in the calculation of discount percentage rate of the POR program, and to address necessary revisions to Liberty's delivery service tariff and Electric Supplier Services Master Agreement to incorporate the POR program and municipal and county aggregations into those documents. **Order No. xx,xxx (ADMIN INSERT DATE)**. This order is to provide supplemental notice of the additional issue presented in this proceeding: the consideration of revisions to Liberty's delivery service tariff and Electric Supplier Services Master Agreement necessary to implement the POR program and incorporate municipal and county aggregations under Puc 2200 rules into those documents. The Commission notes that, at this time, Liberty has not

6. WHEREFORE, CPCNH respectfully requests that the Hearing Examiner incorporate the suggested edits into their Report and Recommended Order and Recommended Supplemental Order of Notice.

Community Power Coalition of New Hampshire



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cc: DE 23-003 service list