BEFORE THE NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

LIBERTY UTILITIES (GRANITE STATE ELECTRIC) CORP. D/B/A LIBERTY PROPOSED PURCHASE OF RECEIVABLES PROGRAM	: : : :	DOCKET NO. DE 23-003 JUNE 23, 2023

NRG RETAIL COMPANIES' COMMENTS

Direct Energy Services, LLC; Direct Energy Business, LLC; Direct Energy Business Marketing, LLC; Reliant Energy Northeast LLC; and XOOM Energy New Hampshire, LLC (collectively, the "NRG Retail Companies") hereby submit their comments regarding the proposed purchase of receivables ("POR") program submitted by Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty ("Liberty" or "Company") in the above-captioned proceeding.

INTRODUCTION

New Hampshire's municipal aggregation law[1] authorizes municipalities to aggregate electric power supply and operate approved community aggregation programs.[2] In 2021, the New Hampshire legislature amended that law to authorize the purchase of receivables of competitive electric power suppliers ("CEPS") by the electric distribution utilities ("EDUs").[3]

On October 7, 2022, the Commission filed final rules with the Division of Administrative Rules implementing the provisions of RSA 53-E ("Puc 2200 Rules").[4] Among other things, the Puc 2200 Rules require each EDU to propose a POR Program.[5] In compliance with this

[1] Revised Statutes Annotated ("RSA") Chapter 53-E.

[2] RSA 53-E:3-a.

[3] RSA 53-E:9, II.

[4] *See* Docket No. DRM 21-142, *Community Power Coalition of New Hampshire Petition for Rulemaking to Implement RSA 53-E for Community Power Aggregations by Stakeholders*, Notice No. 2022-14 – Adoption of Final Rules (Oct. 7, 2022).

[5] Puc 2205.16(e).

requirement, on January 10, 2023, Liberty filed testimony and supporting materials outlining a proposal for a POR program.[6]

On February 2, 2023, the Commission issued a Commencement of Adjudicative Proceeding and Notice of Prehearing Conference offering interested parties an opportunity to file petitions to intervene in the proceeding.[7] Subsequently, the NRG Retail Companies filed a petition to intervene,[8] which was granted on March 21, 2023.[9]

Based on the information derived from the Liberty testimony and the technical session as well as Liberty's responses to data requests and consistent with the approved procedural schedule,[10] the NRG Retail Companies hereby submit their comments regarding the proposed Liberty POR program.

COMMENTS

The overarching purpose of a POR program is to mitigate the risk that CEPS bear regarding nonpayment by customers, whether those customers are being served in the aggregate via the community power aggregation program offered by New Hampshire municipalities or on an individual basis in the competitive retail market. Unlike the EDUs, CEPS do not have the statutory authority to disconnect customers for nonpayment and are relegated to the limited remedy of customer de-enrollment. The expectation is that implementation of a well-designed POR program will reduce the financial and administrative barriers that CEPS face in the competitive market; thereby, increasing the number of market participants and enhancing retail

[6] *See* Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Proposed Purchase of Receivables Program (Jan. 10, 2023) ("Liberty Proposed POR Program").

[7] Commencement of Adjudicative Proceeding and Notice of Prehearing Conference (Feb. 2, 2023), at 4.

[8] NRG Retail Companies' Petition to Intervene (Mar. 10, 2023).

[9] Prehearing Conference Transcript (Mar. 21, 2023), at 5.

[10] *See* Parties' Proposed Procedural Schedule (Mar. 30, 2023); Procedural Order Re: Proposed Procedural Schedule (Mar. 31, 2023) (approving the proposed schedule and setting hearing dates).

competition, especially for the state's nascent community aggregation program. Thus, the adoption of a POR program that requires Liberty to purchase the receivables of all CEPS that choose consolidated billing service is in the public good.[11] Accordingly, the NRG Retail Companies support the Commission's approval of such a program in the Liberty service territory. However, for the reasons set forth more fully below, the NRG Retail Companies request that the Commission order Liberty to: (a) modify its proposed schedule for payment to CEPS; and (b) amortize implementation costs over five years and clarify the amount of working capital costs that will be included in the discount percentage rates ("DPRs").

I. ADOPTION OF THE LIBERTY POR PROGRAM IS IN THE PUBLIC GOOD

POR encourages the entry of new competitors into a market that relies on utility consolidated billing by placing CEPS in approximately the same position as the EDU default service provider for purposes of cash flow and working capital. Accordingly, the effective implementation of POR will increase CEPS participation in the retail market and provide consumers with greater access to competitive and innovative rate plan offerings.

A POR program mitigates collection risk for CEPS by establishing the terms and conditions by which the EDUs purchase the accounts receivable of CEPS operating in the EDUs' service territories. Notably, while a POR program makes the EDUs responsible for the collection of the charges assessed by CEPS on EDU issued bills, it does not increase risks to the EDUs or distribution customers. Indeed, as the Connecticut Public Utilities Regulatory Authority ("PURA") found when it required The Connecticut Light and Power Company d/b/a Eversource Energy to adopt a POR program:

> Reflecting the generation portion of . . . uncollectibles through a [POR] mechanism does not increase the cost. Instead, it allocates a portion of this

[11] *Cf.* RSA 53-E:9, I (authorizing the POR program to include all CEPS if the Commission finds "that it is for the public good.").

> expense to the generation component of rates and allows the cost to follow generation rates whether these rates are billed by [the EDU] or a supplier. Therefore, [an EDU] is not subjected to any greater risk regarding the recovery of this expense than it is under traditional ratemaking.[12]

The most important component of a POR program is establishing the DPR at which the EDUs purchase the receivables from the CEPS (i.e., the percentage discount that each EDU applies to the full amount owed from customers to CEPS participating in the program). In turn, the most critical factor of the DPR is the Uncollectible Percentage ("UP").

Starting in the second year of the POR program,[13] Liberty proposes to calculate the UP "based on actual uncollectible expense data for all customers in the applicable class, for the most recent period for which such data is available, divided by the total amounts billed for the applicable customer class for the same period, including late payment fees, if included in uncollectible expense."[14] Beginning in the second year, Liberty will calculate the UP based on actual uncollectible expense and revenue data for CEPS customers.[15] Like the Connecticut program, allocating this uncollectible expense to CEPS avoids increased risk to the EDUs or distribution customers.[16]

A POR program also will not increase the costs borne by the EDUs or distribution customers. In fact, the law authorizing the POR program specifically prohibits the EDUs or default service customers from assuming the costs associated with the program.[17] Moreover,

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[12] *See* PURA Docket No. 05-08-05RE02, *DPUC Investigation Into the Process By Which Customers Can Choose an Electric Supplier When Initiating Electric Service – Amended Referral Program*, Decision (Oct. 10. 2007) ("CT POR Decision"), at 10.

[13] In the first year, because it does not currently have class specific data, Liberty proposes that a single DPR for all customer classes be used. Liberty Proposed POR Program, Direct Testimony of Erica L. Menard ("Menard Testimony"), at 7.

[14] *Id.* at 6.

[15] *Cf.* NRG 1-2 at Attachment NRG-1.

[16] *Cf.* CT POR Decision, at 10.

[17] RSA 53-E:9, II ("[T]he utility's participation in the purchase of receivables program shall not require the utility or non-participating consumers to assume any costs arising from its use.").

because Liberty has proposed class-specific DPRs after the first year,[18] the proposed program will also eliminate potential cross-subsidization among customer groups.

Liberty's POR program will broadly promote retail choice and customer access to competitive markets without increasing risks or costs to the EDUs or distribution customers; thereby, serving the public good.[19] Thus, the NRG Retail Companies support the Commission's adoption of the Liberty proposed POR program with the modifications described below. Further, the NRG Retail Companies strongly endorse Liberty's proposal to, beginning in the second year, assign applicable write-off percentages by customer class because this properly assigns the bad debt or uncollectible expenses by rate classification and will eliminate potential cross-subsidization among customer groups.

II. LIBERTY SHOULD AMORTIZE ITS IMPLEMENTATION COSTS OVER FIVE YEARS AND CLARIFY THE AMOUNT OF WORKING CAPITAL COSTS

Liberty proposed amortizing the costs to implement POR over three years.[20] The NRG Retail Companies request that the Commission order Liberty to amortize the costs to implement POR over five years in order to ensure more of the CEPS that will benefit from the program bear some of those implementation costs.

Currently, there are only nineteen CEPS licensed to serve residential customers in New Hampshire.[21] Of those, only nine are currently offering service to residential customers in the Liberty service territory.[22] The NRG Retail Companies anticipate that, once POR is

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[18] Menard Testimony, at 6.

[19] *See* RSA 53-E:9, I (authorizing the POR program to include all CEPS if the Commission finds "that it is for the public good.").

[20] Menard Testimony, at 8.

[21] *See* New Hampshire Department of Energy ("DOE"), List of Residential Energy Suppliers, https://www.energy.nh.gov/consumer/choosing-energy-supplier/electric-supplier-list-residential (last visited Jun. 22, 2023).

[22] *Id.*

implemented, a significant number of CEPS will enter the market. For example, in Massachusetts, where POR has been in place since 2014, there are nearly three times as many competitive suppliers licensed to serve residential customers.[23] By requiring Liberty to adopt a five-year amortization period, the Commission can ensure that more of the CEPS that will benefit from POR pay a portion of the costs associated with its implementation.

In its testimony, Liberty indicated that "[t]he Company is not including any working capital costs in the DPR at this time."[24] However, in sample DPR calculations provided in responses to data requests, the Company did indeed include working capital costs. As a consequence, it is unclear if Liberty will have working capital costs associated with the implementation and/or administration of the POR program. This discrepancy may have a significant impact on the underlying calculation of the DPR. Thus, the NRG Retail Companies requests that the Commission require Liberty to clarify the amount (if any) of working capital costs it expects to include in the DPRs.

III. THE COMMISSION SHOULD REQUIRE EACH OF THE EDUS TO ADOPT CONSISTENT POR PROGRAMS

Liberty has proposed that it make an annual reconciliation filing sixty days in advance of the effective date of the new DPRs.[25] The NRG Retail Companies support this proposal and, to ensure consistency and mitigate operational confusion., recommend that the Commission require that all EDUs implement the same schedule for their annual reconciliation filings. Notably, Unitil Energy Systems ("UES") proposed that, on or about February 1 each year, it make an

[23] *See* https://eeaonline.eea.state.ma.us/DPU/Fileroom/Licenses (last visited Jun. 22, 2023).
[24] Menard Testimony, at 8.
[25] *Id.* at 11.

annual reconciliation filing to establish the DPR to be effective on April 1.[26] The NRG Retail Companies support the UES proposed schedule because it will provide the Commission adequate time to seek input from interested stakeholders and review each EDU's supporting documentation and related analysis.

Liberty has also proposed that it "make a single monthly payment on the last Business Day of the calendar month to each participating Competitive Supplier for all POR customers billed on their behalf during the prior calendar month of service."[27] However, Public Service Company of New Hampshire d/b/a Eversource Energy ("Eversource") has proposed that payments to CEPS be made monthly consistent with the combined average payment period of the applicable customer class as is done by Eversource's affiliate in Massachusetts.[28] The Eversource proposed payment schedule is more equitable because it ensures that CEPS receive more timely payments and avoids potential negative impacts to CEPS cash flow. Thus, the NRG Retail Companies recommend that the Commission require Liberty to adopt the Eversource payment schedule.

In data requests, each of the EDUs was asked to provide proposed changes to their terms and conditions for CEPS and to their agreements with CEPS. To date, Liberty has not provided any proposed changes to its terms and conditions and has provided proposed changes to its Electricity Supplier Service Agreement solely applicable to community power aggregations. As a consequence, the parties do not yet know the full scope of the changes that Liberty intends to

[26] Docket No. DE 23-002, *Unitil Energy Systems, Inc. Proposed Purchase of Receivables Program,* Exhibit CJGSED-1, at 11.

[27] Menard Testimony, at 10-11.

[28] *See* NSTAR Electric Company d/b/a Eversource Energy Eastern Massachusetts Terms and Conditions – Competitive Suppliers and Competitive REA Suppliers (available at: https://www.eversource.com/content/docs/default-source/rates-tariffs/ma-electric/4.pdf?sfvrsn=e4c82c1d_7) (last visited Jun. 22, 2023), at 15.

propose to effectuate the POR program. Given this, in order to expedite POR implementation, the NRG Retail Companies request that resolution of tariff and supplier agreement changes occur after the basic structure and parameters of the POR program are approved by the Commission. To ensure consistency across EDU service territories, the NRG Retail Companies recommend that the Commission open a separate, consolidated proceeding involving all of the EDUs that could be conducted during the period of time in which POR is being implemented.[29]

CONCLUSION

For all the foregoing reasons, when approving the proposed Liberty POR program, the NRG Retail Companies request that the Commission order Liberty to: (a) modify its proposed schedule for payment to CEPS; and (b) amortize implementation costs over five years and clarify the amount of working capital costs that will be included in the DPRs.

[29] Such a proceeding could also provide an opportunity for the Commission to consider reconstituting the New Hampshire electronic data interchange working group. *See* Docket No. DE 23-002, *Unitil Energy Systems, Inc. Proposed Purchase of Receivables Program*, NRG Retail Companies' Comments (Jun. 9, 2023), at 7-9.

CERTIFICATE OF SERVICE

I hereby certify that a copy of these Comments has this day been sent via electronic mail or first-class mail to all persons on the service list.

JL Miranda

Joey Lee Miranda

Dated: June 23, 2023

Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty

DE 23-003
Purchase of Receivables Program

NRG Retail Companies' Data Requests - Set 1

Date Request Received: 5/16/23
Request No. NRG 1-2

Date of Response: 5/26/23
Respondent: Kristin Jardin
Shelby Ivey

REQUEST:

Re: DOE 1-8
Once the Company begins tracking uncollectible expenses by customer class and by customer supply type (e.g., default service or competitive supply), will the uncollectible percentage be calculated based solely on the revenues and uncollectible expenses associated with supply provided by CEPS?

RESPONSE:

Yes, the uncollectible expense would be calculated based on supply type (default service vs. supply provided by CEPS).