

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 23-068**

**ELECTRIC AND GAS UTILITIES**

**2024–2026 Triennial Energy Efficiency Plan**

**Supplemental Prehearing Order re: Record Request Responses and Specific Answers**

In 2022 N.H. Laws, ch. 5 (HB 549), the legislature directed the Commission to narrowly review energy efficiency programming, entailing a review of cost effectiveness, RSA 374-F:3 VI-a d(4), and changes to program offerings, RSA 374-F:3 VI-a d(5), by November 30, 2023 for the current planning period. Subject to the hearing process, the Commission sees no obstacles to approval of the changes to program offerings submitted by the joint utilities at the conclusion of this proceeding. The Commission anticipates asking questions at hearing with an emphasis on cost effectiveness and the changes to program offerings to meet these statutory requirements, as well as our duty to keep informed under RSA 374:4. We also expect to inquire about future energy efficiency plans.

At a prehearing conference on October 10, 2023, the Commission stated that it intended to take official notice of responses to Commission requests for records and specific answers that parties have filed in this docket. The Commission's prehearing order of October 12, 2023, summarized that as follows:

The Commission informed the parties that it intends to take official notice of the written responses to the Commission's written inquiries issued over the course of this proceeding, including having written responses adopted by witnesses during hearing sessions. The parties were afforded the opportunity to provide responses to the Commission's statement of intent, and the parties made position statements that were preliminary in nature. No determinations have been made based on the parties' responses to the Commission's notification related to official notice at the prehearing conference.

Two parties filed responses to this prehearing order as of today's date. First, the Office of the Consumer Advocate (OCA) clarified that it did not state a preliminary position, rather that it objects to the Commission taking official notice of these filings because the documents do not meet the criteria for official notice set forth in RSA 541-A:33, V. Second, the joint utilities filed a position statement disagreeing with the Commission's approach because: 1) the material that the Commission seeks to admit as evidence in this proceeding through administrative notice is not the type of material that qualifies for administrative notice under Puc 203.27; 2) the material does not constitute evidence under Puc 203.23; 3) the requests and responses are subject to reasonable dispute; and 4) under Puc 203.23 (a) it would be improper for the Commission to introduce material that no party has offered. The joint utilities further stated that although their respective witnesses will not adopt written responses to the Commission's inquiries as testimony, the joint utilities stand by the veracity of the responses. Finally, the joint utilities opined that RSA 365:19 (authorizing independent investigation provided that any facts which the commission shall intend to consider in making any decision be stated and made a part of the record and any party be afforded a reasonable opportunity to be heard with reference thereto or in denial thereof) is superseded by the Administrative Procedures Act (RSA 541-A) and N.H. Code Admin. R. Puc ch. 200.

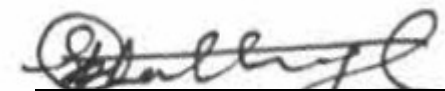
Based on the parties' statements at the prehearing conference and written responses filed by the joint utilities and OCA, we have determined that it is not necessary to take official notice under RSA 541-A:33 of the record request responses and specific answers in this instance for the purpose of making factual findings. We will review the record request responses and specific answers as part of our review of the overall record in making our determinations in this matter, affording this data the weight it deserves. During the forthcoming hearing sessions, we intend to continue to ask questions of the

joint utilities and other parties, with emphasis on reviewing cost effectiveness and on changes to program offerings. Commissioner questions may arise from particular record request responses or written responses to requests for specific answers. In light of these determinations, it is not necessary to address other legal arguments raised by the parties as related to this matter.


So ordered, this twentieth day of October, 2023.



Daniel C. Goldner  
Chairman



Pradip K. Chattopadhyay  
Commissioner



Carleton B. Simpson  
Commissioner

# Service List - Docket Related

Docket#: 23-068

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