

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

IR 13-244

ELECTRIC DISTRIBUTION UTILITIES AND COMPETITIVE ENERGY SUPPLIERS

Investigation into Payment Hierarchy Issues

Order Approving Settlement Agreement

ORDER NO. 25,675

June 4, 2014

APPEARANCES: Gary Epler, Esq. on behalf of Unitil Energy Systems, Inc.; Mark W. Dean, Esq. on behalf of the New Hampshire Electric Cooperative, Inc.; Sarah B. Knowlton, Esq. on behalf of Liberty Utilities (Granite State Electric) Corp.; Matthew J. Fossum, Esq. on behalf of Public Service Company of New Hampshire; Murtha Cullina, LLP by Robert Munnely, Esq. on behalf of North American Power & Gas; Orr and Reno PA by Douglas Patch, Esq. on behalf of the Retail Energy Supply Association; Bernstein, Shur, Sawyer & Nelson, P.A. by Christopher G. Aslin, Esq. on behalf of Electricity N.H. d/b/a E.N.H. Power; James T. Rodier, Esq. on behalf of PNE Energy Supply, LLC; the Office of the Consumer Advocate by Rorie E. P. Hollenberg, Esq. on behalf of residential ratepayers; and Suzanne G. Amidon, Esq. on behalf of Commission Staff.

In this Order, the Commission approves a Settlement Agreement among the New Hampshire electric distribution utilities and competitive electric power suppliers (CEPS). The Settlement Agreement establishes the order in which customer payments are to be applied to balances due to a utility and to a CEPS when the CEPS has engaged the utility to perform a suite of billing, payment, and collection services, often referred to as consolidated billing. The Settlement Agreement also provides a process whereby utilities are to inform CEPS that have elected consolidated billing whether customers are on budget billing or payment plans.

I. PROCEDURAL HISTORY

The Commission opened this docket in response to a May 9, 2013, letter from Commission Staff (Staff) and the Office of the Consumer Advocate (OCA). Staff and the OCA

urged the Commission to open a docket to review the payment hierarchy between electric distribution utilities and competitive electric power suppliers (CEPS). The term “payment hierarchy” refers to the order in which customer payments are applied to balances due to a utility and to a CEPS when the CEPS has engaged the utility to provide billing, payment, and collection services, an arrangement referred to as “consolidated billing.” Consolidated billing authorizes the utility to send a single bill to a customer that includes amounts owed to both the CEPS and the utility; to receive payments from the customer for amounts owed to both the CEPS and the utility; and to assume responsibility for collection services for customers who are delinquent in paying their bill.

According to Staff and the OCA, when a customer takes energy supply from a CEPS and pays his or her bill in full and on time, the CEPS receives its billed revenue in a timely manner. When a customer pays less than the full amount owed, whether a result of a budget billing payment plan, a negotiated payment arrangement, or simply a partial payment, a utility generally applies payments to the utility’s past-due amount first, often resulting in the CEPS experiencing considerable delay in receiving payment. Staff and the OCA expressed concern that this practice also results in customer confusion if both a CEPS and a utility engage in collection practices, such as phone calls or letters to customers seeking bill payment.

The OCA filed a notice of participation. The Commission named Unitil Energy Systems, Inc. (UES), the New Hampshire Electric Cooperative, Inc. (NHEC), Liberty Utilities (Granite State Electric) Corp. (Liberty), and Public Service Company of New Hampshire (PSNH) (collectively, Utilities) mandatory parties to the investigation. The following parties intervened in the proceeding: Electricity N.H. d/b/a E.N.H. Power (ENH Power), North American Power &

Gas (NAPG), Retail Energy Supply Association (RESA), and PNE Energy Supply, LLC (PNE) (collectively, Intervening Suppliers).

The Intervening Suppliers filed testimony in support of a payment hierarchy that would allocate customer payments between the utility and CEPS bills according to one of the following priority schemes: (1) utility arrears, CEPS arrears, utility current bill, and CEPS current bill (Liberty's allocation system); or (2) oldest account receivable (whether utility or CEPS), next oldest account receivable (whether utility or CEPS), and utility current bill and CEPS current amounts (UES's allocation system). In the event the utility receivable and the CEPS receivable were the same age, payments would be pro-rated between the utility and CEPS. The Intervening Suppliers also stated that they were interested in resolving the issue in as efficient and expeditious a manner as possible. The Intervening Suppliers noted that provision of additional information by the utilities to the CEPS regarding those CEPS customers that have entered into utility approved budget billing arrangements or other payment arrangements would further reduce the customer communications problems noted by Staff and the OCA.

Following the presentation of this proposal, the Utilities, Intervening Suppliers, Staff and the OCA engaged in settlement discussions, following which the Utilities, the Intervening Suppliers, and Staff entered into a Settlement Agreement. Staff filed the Settlement Agreement on March 14, 2014. The Commission held a hearing on the Settlement Agreement on March 20, 2014.

II. SETTLEMENT AGREEMENT

Pursuant to the Settlement Agreement, NHEC and PSNH agreed to adopt a payment hierarchy for CEPS receiving consolidated billing services using the following payment priority: (1) utility outstanding deposit obligations, (2) any utility current payment arrangement

obligations, (3) any utility budget billing arrangement obligations, (4) utility and supplier aged accounts receivables, with a priority for the utility aged receivables, (5) utility and supplier current charges, with a priority for the utility's current charges, and (6) any miscellaneous non-electric service product or services. Liberty and UES agreed to maintain their current payment hierarchy or adopt the payment hierarchy agreed to by NHEC and PSNH.

All Utilities agreed to provide CEPS receiving consolidated billing services with a "sync" report no more frequently than once a month. The sync report provides customer information such as billing information, mailing address, and account number to allow CEPS to match their records with utility records. In addition, all Utilities agreed to provide the budget billing or payment plan status of customers to CEPS through either monthly electronic communications or electronic data interchange (EDI) transactions. The Settlement Agreement also provides that the Utilities will amend their supplier services agreements to include the requirement that CEPS obtain the express authorization of residential and small commercial customers to disclose to CEPS the existence or lack of budget billing plans or payment arrangements; and it describes the process by which CEPS will obtain such consent from their customers.

The Settlement Agreement provides that all CEPS, not just the Intervening Suppliers, will pay for the cost of any changes that Utilities have to make to their information systems to accommodate the payment hierarchy changes. PSNH is the only utility that identified costs regarding the operational or computer changes needed to implement the Settlement Agreement, and agreed to a cap on the recoverable costs of approximately \$18,000.

Finally, the Settlement Agreement addresses customer communications. The Intervening Suppliers agreed that upon receipt of the monthly electronic communication or EDI transaction that identifies customers that are on either a budget billing or other payment plan, a CEPS will

use its best efforts to avoid initiating communications with such customers regarding the status of unpaid balances. At hearing, the settling parties agreed that CEPS should nonetheless have the right to make one (1) contact with each residential and small commercial consolidated billing customer in an approved budget billing or payment plan to seek payment for unpaid or late balances prior to initiating termination of service to the customer. The Settlement Agreement also acknowledges that CEPS are permitted to contact their customers for any purpose other than seeking payment of unpaid or late balances.

The Utilities, the Intervening Suppliers, and Staff signed and supported the Settlement Agreement. The OCA participated in the settlement discussions and stated its support for the Settlement Agreement at hearing. The OCA did not sign the Settlement Agreement due to the Consumer Advocate's absence from the office.

III. COMMISSION ANALYSIS

Pursuant to RSA 541-A:31, V(a), informal disposition may be made of any contested case at any time prior to the entry of a final decision or order, by stipulation, agreed settlement, consent order, or default. N.H. Code Admin. Rules Puc 203.20(b) requires the Commission to determine, prior to approving disposition of a contested case by settlement, that the settlement results are just and reasonable.

We have reviewed the Settlement Agreement and find that it represents a reasonable compromise of the issues raised in the Order of Notice in this proceeding. The Settlement Agreement recognizes that the Utilities have the responsibility to implement a payment hierarchy system that fairly allocates payments between utilities and CEPS. At the same time, it recognizes that CEPS must employ best efforts to avoid contacting customers about past due accounts because, under consolidated billing, that function belongs to the utilities. In addition,

the Utilities agree to provide CEPS with information regarding the enrollment of the CEPS customers in budget billing or other payment plans, provided the CEPS has obtained the express consent of the customer to do so. Finally, the CEPS agree to pay the costs of any changes to the Utilities' information systems that are necessary to implement the Settlement Agreement.

Based on our review, we approve the Settlement Agreement and incorporate its terms and conditions into this Order. To facilitate efficient administration of the Settlement Agreement, we authorize the signatories to modify the Agreement so long as any modification is mutually agreed upon and non-substantive, such as a clerical or ministerial amendment that involves timing or scheduling. The signatories shall file any such modification with the Commission and provide a copy to all parties on the service list. The Commission will approve such requests, if appropriate, via secretarial letter without the need for notice or hearing.


Based upon the foregoing, it is hereby


ORDERED, the Settlement Agreement among Unitil Energy Systems, Inc., Public Service Company of New Hampshire, the New Hampshire Electric Cooperative, Inc., Liberty Utilities (Granite State) Corp. d/b/a Liberty Utilities, E.N.H. Power, North American Power and Gas, LLC, PNE Energy Supply, LLC, the Retail Energy Supply Association, and Commission Staff establishing payment hierarchy priorities and related communication issues is hereby APPROVED; and it is

FURTHER ORDERED, that the terms of the Settlement Agreement shall apply to any CEPS registered to do business in New Hampshire that takes consolidated service from a utility.


By order of the Public Utilities Commission of New Hampshire this fourth day of June,
2014.


Amy L. Ignatius (PWS)
Chairman


Robert R. Scott
Commissioner


Martin P. Honigberg
Commissioner

Attested by:


Debra A. Howland
Executive Director