

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

IR 15-296

INVESTIGATION INTO GRID MODERNIZATION

**Order on Procedural Issues for Developing Requirements
for Integrated Distribution System Plans**

ORDER NO. 26,254

May 29, 2019

This order establishes the next steps in a stakeholder process for developing the framework for electric distribution utility integrated distribution system plans.

I. PROCEDURAL HISTORY

The Commission opened this docket on July 30, 2015, to investigate the modernization of New Hampshire's electric grid. Given the breadth of the topic, the Commission invited all interested parties to participate in this proceeding including parties with expert knowledge of grid modernization. The Commission made electric distribution utilities mandatory parties to the proceeding.¹

The Commission received comments on grid modernization through the summer and into the fall of 2015. Commission Staff (Staff) filed a status report on October 15, 2015. Staff's principle recommendation was that the Commission retain a facilitator/moderator to manage the investigation and an expert in grid modernization. Staff engaged Raab Associates Ltd. (Raab), to facilitate and mediate a working group process and Synapse Energy Economics to provide

¹ The electric distribution utilities are Public Service Company of New Hampshire, Inc. d/b/a Eversource Energy, Unitil Energy Systems, Inc., and Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities (collectively "Utilities").

analytical services to Staff and the stakeholders as needed. *See Investigation into Grid Modernization*, Order No. 28,877 (April 1, 2016) (Order on Scope and Process).

Over the ensuing months, Raab facilitated numerous stakeholder sessions and, on March 20, 2017, filed a report titled *Grid Modernization in New Hampshire (Working Group Report)*. The Working Group Report discussed a number of policy issues and identified areas of consensus as well as areas of dispute among stakeholders.

Staff spent an additional two years investigating workable frameworks for modernizing New Hampshire's electric distribution grid in a regulated industry. Over this two-year period, Staff received training from, and worked in consultation with, the U.S. Department of Energy (DOE). Staff also examined the experiences of a number of states to identify a modernization paradigm that would be logical and derived from sound engineering practice, while allowing for scrutiny of the modernization process. *See Staff Recommendation on Grid Modernization* (January 31, 2019) at 7-8 (filed February 12, 2019) (Staff Report). The Staff Report incorporated the policy recommendations of the Working Group Report and recommended a process and framework for utilities to develop integrated distribution system plans (IDPs) that would accommodate grid modernization.

Staff based its recommendations on the DOE Modern Grid Report, a guidance document developed as part of the DOE's grid modernization initiative. That guidance was developed with the input of the public utility commissions of California, New York, Hawaii, Minnesota, and the District of Columbia; and with the assistance of technical advisors, DOE Laboratories, DOE consultants, and electric utility and industry experts. As of the date of the Staff Report, more than 20 states were beginning to implement elements of DOE's guidance. *Id.* at 22. The Staff Report left a number of issues for further refinement by New Hampshire stakeholders through working group sessions.

Staff presented its report to participants in this docket at a technical session held on March 25, 2019. The Commission set a deadline of April 8, 2019, for written comments on the Staff Report, and scheduled a public comment hearing for April 12. Following the public comment hearing, the Commission scheduled another technical session for stakeholder discussions of procedure going forward. In the secretarial letter scheduling the technical session, the Commission requested that stakeholders consider non-traditional litigation processes that could lead to an efficient presentation and resolution of issues in dispute. The technical session was held on May 15 and, on the following day, Staff filed a report on the technical session with recommendations for next steps in the investigation. On May 17, 2019, the Office of the Consumer Advocate (OCA) filed additional comments.

II. POSITIONS OF THE PARTIES AND STAFF

A. April 8, 2019, Comments on Process

1. OCA and Non-Utility Stakeholders

In its April 8 filing, the OCA commented on both procedural and substantive issues concerning the Staff Report.² The City of Lebanon adopted the OCA's comments as its own. Conservation Law Foundation generally supported the OCA's comments, and Clean Energy New Hampshire joined in the OCA's request for an adjudication to decide non-consensus issues. The OCA argued that the Order on Scope and Process "explicitly ties the concept and implementation of grid modernization to the discharge of the Commission's responsibility pursuant to RSA 378:7 to assure that utility rates are just and reasonable. RSA 378:7 explicitly and unambiguously requires a hearing prior to such a rate determination." OCA comments at 2 (citing Order No. 25,877 at 2). The OCA argued further that the Commission's decisions in

² This order will focus only on procedural comments.

connection with grid modernization affect the private interests of consumers represented by the OCA. On that basis the OCA maintained that it is entitled to due process, N.H. Const. Part I, Article 15, which the OCA asserts cannot be provided by an informal working group process.

2. Utilities

The Utilities generally focused on streamlining the process. They also suggested that they might file proposals on some issues such as the benefit/cost test. The Utilities did not assert that an adjudicative proceeding is required at this time, and expressed an interest in getting a Commission order directing what elements should be included in an IDP before they began work on their respective IDPs.

B. Report of May 15, 2019, Technical Session

1. Staff Letter

Staff's report of the May 15 technical session outlined 11 issues that the stakeholders agreed merit proposals from the group. Those issues include:

1. Cost Effectiveness Methodology
2. Utility Cost Recovery
3. Utility and Customer Data and Third Party Access
4. Hosting Capacity/Locational Value Analysis/Interconnection
5. Annual Reporting Requirements
6. Rate Design Policy
7. Strategic Electrification Policy
8. Consolidated Billing/General Billing
9. Consumer Advisory Council/Stakeholder Engagement
10. Capital Budgeting Process
11. LCIRP/IDP Integration

The stakeholders in attendance agreed that the Utilities would file a joint proposal on the first five topics, that non-utility stakeholders would file separate proposals on the first five topics, and that all stakeholders might file proposals on any of the remaining six topics. Proposals would be filed 90 days after the issuance of a supplemental order of notice in this docket. The stakeholders agreed to meet in a technical session after comments are filed to discuss additional

processes needed to resolve issues, if possible, and to complete the record on issues to be decided by the Commission. The stakeholders' stated goal is the establishment of a grid modernization framework before utilities file individual IDPs.

2. OCA Letter

On May 17, 2019, the OCA clarified its position regarding the report from the May 15 technical session. The OCA described the next part of the process as a contested case and an adjudicative proceeding under the New Hampshire Administrative Procedure Act, RSA Chapter 541-A. The OCA reserved its right to file written testimony on the topics identified in the Staff Letter, as well as others, and requested that the Commission's rules, specifically N.H. Code Admin. Rules Puc Part 200, be applied to the process going forward. Finally, the OCA stated its understanding that the Commission would hold a hearing and issue an order prior to requiring utilities to file individual IDPs.

III. COMMISSION ANALYSIS

We have considered the OCA's arguments that the process going forward in this docket will be a "contested case," and thus requires an adjudicative proceeding. *See* RSA 541-A:1, I and IV, and RSA 541-A:31, and other parties' requests that disputed issues be resolved using traditional litigation procedures. This docket was opened as an investigation in order to "create an open dialog on key grid modernization topics, and to reach as much agreement as possible on regulatory opportunities for advancing grid modernization in New Hampshire." Order of Notice at 2. Notwithstanding various parties' arguments to the contrary, we find that the parties are not engaged in a "contested case" in which any party's "rights, duties or privileges ... are required by law to be determined ... after notice and an opportunity for hearing" in an "adjudicative proceeding," under the Administrative Procedure Act. RSA 541-A:1, I and III.

Although concepts regarding the substantive requirements of utility least cost planning are at issue, this proceeding remains an investigation to develop a workable framework for grid modernization in New Hampshire. This proceeding is not a review of any particular least cost plan or a determination of what specific capital investments will be placed in utility rate base. As indicated in the secretarial letter that scheduled the May 15 technical session, we are interested in using both traditional and non-traditional litigation procedures to develop a record for our decision-making if those procedures will be effective and efficient for that purpose.

Accordingly, we accept the recommendations contained in the Staff Letter with some modification. Anyone wishing to file a proposal on any of the 11 issues identified in the Staff Letter shall do so in writing on or before September 6, 2019. The Utilities must file comments on all 11 issues. We look forward to receiving additional substantive detail from stakeholders regarding all of the topics identified. Those who believe that any of the enumerated issues should be reserved for utility-specific IDP proceedings should say so in their comments. Our goal is to resolve as many issues as possible before utilities file their individual IDPs. We encourage stakeholders to submit joint comments.

Following the filing of written comments, two technical sessions will be held for stakeholders to resolve issues where agreement and compromise are possible, to identify the issues that remain in dispute, and to discuss additional processes for resolving those disputed issues. Finally, we direct Staff to report on the status of stakeholder discussions and to recommend additional processes to address and resolve outstanding issues. Staff shall file that report and recommendation on or before October 17, 2019. We will then determine whether and what additional process is necessary for our decision-making.

Because this proceeding remains an investigation docket, in which formal interventions are not necessary to participate, we decline to issue a supplemental order of notice at this time.

Based upon the foregoing, it is hereby

ORDERED, that any party wishing to file a proposal on any of the 11 topics contained in the Staff Letter of May 16, 2019, shall do so in writing on or before September 6, 2019; and it is

FURTHER ORDERED, that the distribution utilities shall file proposals on all 11 topics contained in the Staff Letter of May 16, 2019, on or before September 6, 2019; and it is

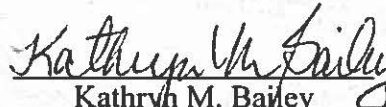
FURTHER ORDERED, that stakeholders shall meet in technical sessions to be held at the Commission's offices commencing at 9:00 am on September 19, 2019, and October 10, 2019; and it is

FURTHER ORDERED, that on or before October 17, 2019, Commission Staff shall file a written report of the status of stakeholder discussions, along with a recommendation regarding the process to be used to resolve any remaining disputed issues.

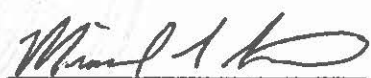
By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of May, 2019.



Martin P. Honigberg
Chairman

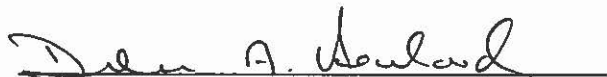


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