

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 23-001

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

Proposed Purchase of Receivables Program

Order *Nisi* Approving Settlement Agreement

O R D E R N O. 26,975

March 19, 2024

In this order *nisi*, the Commission approves a settlement agreement between New Hampshire Electric Cooperative, Inc. (NHEC) and the New Hampshire Department of Energy (DOE). The settlement agreement resolves all issues to the reasonable satisfaction of the parties with respect to NHEC's request for approval of a purchase of receivables (POR) program. This order is issued on a *nisi* basis, affording notice and opportunity for hearing to the parties in the underlying adjudicative proceeding and other interested persons.

I. BACKGROUND AND PROCEDURAL HISTORY

RSA chapter 53-E authorizes municipalities and counties in New Hampshire to establish and operate community aggregation programs (CPA) for retail electric customers within their boundaries, providing access to competitive markets for electric energy supply and related energy services. See RSA 53-E:1. In 2021, RSA chapter 53-E was amended to authorize municipalities and counties to enroll customers on an “opt-out” basis¹ and to require utilities to offer POR programs. See RSA 53-E:7 and :9.

A POR program is a billing arrangement where the utility purchases an aggregation program’s accounts receivable, subject to a Commission-approved

¹ “Opt-out” means that any retail customer currently receiving default energy service from their utility would be automatically enrolled in a municipal or county aggregation program. RSA 53-E:7, II(V).

discount percentage rate (DPR). See RSA 53-E:9, II. A POR program applies if an aggregation program utilizes a utility's consolidated billing service.² If an aggregation program elects to use consolidated billing, the retail customer receives one bill from their distribution utility containing both the energy service charge from the aggregation program and the distribution utility's other service charges. Under a POR program, the utility purchases the accounts receivable of the aggregation program. Aggregation programs are thereby guaranteed payments from the utility for energy service charges on a regular basis without managing or pursuing collections for unpaid balances. See Exh. 2 at Bates page 2.

On March 20, 2023, NHEC filed its proposed POR program through the direct testimony of Jeremy R. Clark, NHEC's Financial Planning, Analysis, and Rates Manager. The Commission issued a "Commencement of Adjudicative Proceeding and Notice of Prehearing Conference," setting a prehearing conference for May 2, 2023, and a deadline of April 21, 2023, for the submission of petitions to intervene in the proceeding. No intervention petitions were filed, and the Commission held the prehearing conference as scheduled. On May 2, the Commission approved an assented-to procedural schedule filed by the DOE.

On September 29, 2023, the NHEC and DOE submitted a settlement agreement (Settlement Agreement), along with a request that the Commission approve the Settlement Agreement through an Order *Nisi*.

² Billing services may be "consolidated" whereby the utility issues a single bill which includes charges for electric power supply and energy services as well as the utility's charges for electric service, or "separate" whereby an aggregation program issues customer bills for the electric power supply and energy services. Puc 2205.16(a).

All filings related to this matter, other than any information for which confidential treatment has been requested of or granted by the Commission, are posted at: <https://www.puc.nh.gov/Regulatory/Docketbk/2023/23-001.html>.

II. SUMMARY OF THE SETTLEMENT AGREEMENT

As described in the Settlement Agreement, every CPA and competitive electric power supplier (CEPS) that elects to use consolidated billing for its customers will be required to participate in NHEC's POR program. The proposed POR program will not be offered for member accounts billed separately by a CPA or CEPS.

Under the POR program, NHEC will make a single monthly payment to the CPA or CEPS during the last week of the calendar month for all members billed on their behalf during the prior calendar month. Monthly payments will be reduced by a discount percentage rate (DPR). The DPR will be comprised of an uncollectible percentage (UP) component and an administrative cost percentage (ACP) component.

The UP component will be based on actual write-off data for residential and non-residential accounts, less non-capital-credit recoveries, divided by the corresponding billed amounts for all bill components (including charges for energy service provided by NHEC as well as energy service provided by a CPA or CEPS), for the most recent two-year period, which will be determined as of the NHEC's fall write-off. NHEC has proposed using actual write-off data for the previous 24-month period as an alternative to including a prior period reconciliation in the calculation of the DPR.

The ACP component will reflect costs specific to the implementation of the POR program, amortized over a five-year period. NHEC estimates the costs associated with the proposal to be \$400,000, which includes both Electronic Data Interface (EDI)

module software changes and all estimated incremental costs necessary to implement the POR program, which include staff time, as well as legal and other associated costs. The ACP will be the same for both residential and non-residential accounts.

Finally, the proposed POR program contains features unique to NHEC's status as a non-profit rural electric cooperative, including noting that any positive distribution margins are allocated to members as capital credits that are first applied to past due balances, including balances previously written off.

III. COMMISSION ANALYSIS

Pursuant to RSA 53-E:9, electric distribution utilities are required to propose to offer POR programs to CPAs and CEPSs serving CPAs. POR programs must be consistent with the parameters of RSA 53-E:9, II. Utility-proposed POR programs for use by CEPSs generally (as opposed to CEPS serving CPAs) must also be found to be for the public good. RSA 53-E:9, I. Finally, because the POR program presented to the Commission for approval is in the form of a settlement, N.H. Code Admin. R. Puc 203.20(b) also applies, requiring that settlement be approved if the result is just and reasonable and serves the public interest.

The NHEC is rural electric cooperative for which a certificate of deregulation is on file with the Commission pursuant to RSA 301:57, therefore is generally exempt from being considered a utility and from Commission ratemaking oversight. Although RSA chapter 53-E makes no explicit mention of its applicability to rural electric cooperatives, N.H. Code Admin R. Puc 2202.15 specifically includes rural electric cooperatives in its definition of a utility. As a rural electric cooperative, the NHEC does not have the same utility to customer relationship as an investor-owned utility, but rather is a non-profit entity serving its members. In light of the relationship between

the NHEC and its members, balancing interests between CPAs, the utility, and its customers for the public good³ results in an impractical legal standard.

Under an RSA 53-E:9, II POR program, a utility shall pay CPAs and included CEPSs for electricity supply and related services less a discount percentage rate equal to the utility's actual uncollectible rate. The utility's uncollectible rate must include two types of costs: "capitalized and operating costs specific to the implementation and operation of the purchase of receivables program, including working capital" and "a pro rata share of the cost of administering collection efforts such that the 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."

We are satisfied the NHEC's proposed POR program meets RSA 53-E:9, II's requirements that are applicable to the rate structure used by the NHEC and its members. The proposed UP component accounts for NHEC's bad-debt write offs in the context of a cooperative that tracks such write offs but would not realize profit (or loss) based on it; rather, NHEC appears to allocate "positive distribution margins" to write-offs and members as a matter of course. With respect to the AP component, the NHEC plans to collect not only capitalized costs associated with the POR program, but also administrative and legal costs. Although the NHEC's proposal does not explicitly address every statutory requirement, such as working capital or the public good standard, given its deregulated status for ratemaking purposes we nonetheless are convinced that the NHEC's proposed POR program adequately addresses the statutory

³ See RSA 53-E:7, X "...to the extent authorities granted to municipalities and counties by this chapter materially affect the interests of electric distribution utilities and their customers, to reasonably balance such interests with those of municipalities and counties for the public good."

intent that the utility and non-participating consumers not assume any costs arising from its use, and that it is just and reasonable and serves the public interest.

Based upon the foregoing, it is hereby

ORDERED NISI, that subject to the effective date below, the Settlement Agreement filed on September 29, 2023 is **APPROVED**; and it is

FURTHER ORDERED, that the NHEC shall post a copy of this order on the NHEC website within two business days of the date of this order, March 21, 2024, with an affidavit of publication to be filed with this office on or before March 28, 2024; and it is

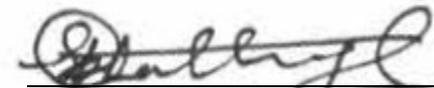
FURTHER ORDERED, that all persons interested in responding to this order be notified that they may submit their comments or file a written request for a hearing, stating the reason and basis for a hearing, no later than March 29, 2024 for the Commission's consideration; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than April 5, 2024; and it is

FURTHER ORDERED, that this order shall be effective April 18, 2024, unless the NHEC fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

By order of the Public Utilities Commission of New Hampshire this nineteenth day of March, 2024.


Daniel C. Goldner
Chairman


Pradip K. Chattopadhyay
Commissioner


Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket#: 23-001

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