

CONSUMER ADVOCATE
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February 13, 2024

Daniel C. Goldner, Chairman
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, New Hampshire 03301

Jared S. Chicoine, Commissioner
Consumer Services Division
New Hampshire Department of Energy
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301

Dear Chairman Goldner and Commissioner Chicoine:

Pursuant to RSA 53-E:7, X and N.H. Code Admin. Rules Puc 2205.12, the Office of the Consumer Advocate ("OCA") is via this letter tendering a formal complaint concerning the Community Power Aggregation plans of three municipalities – Jaffrey, New Boston, and Milford. RSA 53-E:7, X specifies that such complaints should be directed to the Department of Energy ("Department"). Rule Puc 2205.12 directs such complaints to be submitted to the Public Utilities Commission ("Commission"). Given the apparent conflict, and the urgency of the issues implicated by this complaint, we are writing to both agencies and requesting immediate, coordinated action.

The towns of Jaffrey, New Boston, and Milford are out of compliance with the terms of their respective Community Power Plans as approved by the Commission last year in Docket Nos. DE 23-022 (Jaffrey), DE 23-023 (New Boston), and DE 23-029 (Milford). Each town is in the franchised service territory of Public Service Company of New Hampshire d/b/a Eversource Energy ("Eversource") intends to begin providing retail electricity on an opt-out basis as of March 1, 2024, at a "basic rate" of 10.568 cents per kilowatt-hour, which is higher than the Eversource default service rate of 8.285 cents. In each instance, the Commission-approved aggregation plan states that the municipality will not launch its program by offering a basic rate in excess of the then-applicable default energy service rate.

The Jaffrey Community Power Plan

The Jaffrey Community Power Plan explicitly provides that “[a]t minimum, no bid will be accepted at a price higher than the utility default rate at the time of program launch, but the Town may specify stricter criteria.” Jaffrey Community Power Plan (Docket No. DE 23-022, tab 1) at 11. The Jaffrey Community Power Plan also specifies that “the Town will reject all bids and repeat the solicitation for bids as often as needed until market conditions yield a bid that is acceptable.” *Id.* Presently, the default service rate offered by Eversource, is 8.285 cents whereas the alternative under the Community Power Plan, “Jaffrey Basic”, is 10.568 cents.¹ Therefore, the town of Jaffrey *has* accepted a bid that is *higher* than the utility default rate at the time of program launch, contrary to the express terms of its Commission-approved Community Power Plan.² The Jaffrey Basic rate of 10.568 cents results from an Energy Service Agreement (“ESA”) entered on October 4, 2023 with First Point Power, LLC,³ at a time when the Eversource Default Energy Service rate was 12.582 cents. Further, the town of Jaffrey has circulated a flyer via its town web site that provides misleading information to customers, claiming that Jaffrey Basic is “the best price possible.”⁴

The New Boston Community Power Plan

The New Boston Community Power Plan explicitly provides that the “[t]he program will not launch without savings for eligible customers.”⁵ New Boston Community Power Plan (Docket No. DE 23-023, tab 1) at Exhibit 1, Page 2. As with Jaffrey, the Town of New Boston’s web site provides misleading information, in this instance via an “FAQ” stating the ‘Basic option’ offers the best price possible.⁶ As stated above, the 10.568 rate to be offered by New Boston as of March 1 is approximately two cents higher than the Eversource Default Energy Service rate.

The Milford Community Power Plan

Milford offers the same ‘basic rate’ of 10.568 cents under its Community Power Plan as of March 1; however, its rate expressly violates the terms of its Commission-approved Community Power Plan.⁷ Milford Community Power Plan (Docket No. DE 23-023, tab 1) at Exhibit 1, page 2 of 3. Specifically, Milford’s Community Power Plan provides in plain terms via its attachment stating: “The program does not launch unless the program default is lower than the utility default rate.” *Id.* Like the other towns,

¹ <https://www.energy.nh.gov/engvapps/ceps/SmallCommercialCompare.aspx?choice=Eversource>

² The town of Jaffrey’s Community Power Plan was approved by Commission Order 26,832 in DE 23-022 (tab 8).

³ https://www.townofjaffrey.com/sites/g/files/vyhlif4561/f/uploads/electric_service_agreement_-_jaffrey_signed_10042023.pdf

⁴ https://www.townofjaffrey.com/sites/g/files/vyhlif4561/f/uploads/jaffrey_cp_flyer.pdf

⁵ The town of New Boston’s Community Power Plan was approved by Commission Order 26,835 in DE 23-023 (tab 8).

⁶ https://www.newbostonnh.gov/sites/g/files/vyhlif4756/f/uploads/cp_info_and_faq_new_boston_2022.pdf

⁷ The town of Milford’s Community Power Plan was approved by Commission Order 26,852 in DE 23-029 (tab 8).

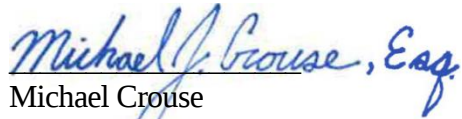
Milford circulates misleading information on its web site's "FAQ" which states that the basic option it offers under the Community Power Plan is the best price possible.⁸

Conclusion

In light of the above, a prompt investigation is warranted and, unless each municipality is able to demonstrate that the rate it intends to begin offering on March 1 is consistent with its Commission-approved aggregation plan, the Department and the Commission must act. In the opinion of the Office of the Consumer Advocate, the interests of the residential ratepayers in each of these communities likely require the Commission to order the three municipalities to suspend their aggregation programs and transfer no customers to those programs, on an opt-out basis or otherwise, until such time as the Commission has had an opportunity to review a revised aggregation plan that, presumably, does not promise customers a rate that will be lower than the default energy service rate of the applicable distribution utility.

We are, as a courtesy, providing a copy of this letter to the officially designated representatives of each affected municipality as well as to Eversource.

Sincerely,

A handwritten signature in blue ink that reads "Michael J. Crouse, Esq." with a stylized flourish at the end.

Michael Crouse
Staff Attorney

⁸ <https://www.milford.nh.gov/community-power> at "Frequently Asked Questions".