

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 18-057**

**STATEWIDE LOW-INCOME ELECTRIC ASSISTANCE PROGRAM**

**Order Approving Settlement Agreement**

**ORDER NO. 26,485**

**June 1, 2021**

**APPEARANCES:** Michael J. Sheehan, Esq., on behalf of Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty; Jessica A. Chiavara, Esq., on behalf of Public Service Company of New Hampshire d/b/a Eversource Energy; Office of the Consumer Advocate by Christa Shute, Esq., on behalf of residential ratepayers; and Mary E. Schwarzer, Esq., on behalf of Commission Staff.

In this order, the Commission approves a settlement agreement providing for the recovery of costs incurred by Eversource and Liberty to implement changes to the Electric Assistance Program required by Order No. 26,132 (May 4, 2018). The Commission finds that Eversource and Liberty are entitled to recover costs in the amounts of \$70,345 and \$140,000, respectively, as reasonable and prudently incurred to implement those changes.

**I. PROCEDURAL HISTORY**

On April 5, 2018, the Electric Assistance Program (EAP) Advisory Board requested the Commission to approve a change to the EAP, which would apply the EAP discount to the energy portion of the bills of EAP participants who obtained their electricity through competitive energy suppliers. At the time of its request, the EAP discount was applied to both the delivery and energy portions of the bills of EAP participants receiving electricity through default energy service, but only to the delivery portion of the bills of EAP participants who chose to buy electricity from competitive energy suppliers. To avoid the complexity associated with different energy rates charged by competitive energy suppliers, the EAP Advisory Board recommended

calculating the EAP discount using the utility's default energy service rate as a proxy. It also recommended applying the discount only to those competitive energy suppliers using consolidated billing. The Office of the Consumer Advocate (OCA) filed a letter of participation on April 9, 2018.

In Order No. 26,132, issued on May 4, 2018, the Commission approved the changes to the EAP recommended by the EAP Advisory Board, finding that they were reasonable and consistent with the public interest. *Id.* at 6. The Commission ordered the EAP discount to be applied to the energy portion of bills of EAP participants using competitive energy suppliers with consolidated billing, based on the default energy service rate, beginning with bills rendered on or after October 1, 2018. *Id.* The Commission permitted Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource), Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty (Liberty), Unitil Energy Systems, Inc. (Unitil), and the New Hampshire Electric Cooperative, Inc. (NHEC) to request recovery of costs incurred for work on their billing systems necessary to implement the changes to the EAP. *Id.* It stated that the Commission would review the requests to determine the prudence and reasonableness of the costs. *Id.*

Unitil filed a letter on October 12, 2018, stating that it would not seek recovery of the costs of complying with Order No. 26,132, because they were minimal. On May 17, 2019, Eversource and Liberty filed a joint petition to recover their costs, supported by testimony and related attachments. Eversource requested recovery of \$70,345, and Liberty sought recovery of \$195,666.

On August 23, 2019, the Commission issued an order of notice, in which it identified the issue to be decided as whether Eversource's and Liberty's respective costs to comply with Order No. 26,132 were prudent, reasonable, and incremental. The order of notice scheduled a

prehearing conference on October 23, 2019, at which Unitil and NHEC did not appear. After multiple technical sessions and rounds of discovery, in which Eversource, Liberty, the OCA, and Commission Staff (Staff) participated, (collectively the “Active Settling Parties”) the parties filed a settlement agreement on March 2, 2020 (Settlement Agreement), signed by all parties. The Commission addressed the Settlement Agreement during a hearing held on March 4, 2020.

The joint petition and additional docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted on the Commission’s website at <https://www.puc.nh.gov/Regulatory/Docketbk/2018/18-057.html>.

## **II. POSITIONS OF THE PARTIES AND STAFF**

### **A. Eversource**

Eversource submitted the testimony of Linda M. Enderwick, Information Technology Manager, Business Services, for Eversource Energy Service Company, and related attachments in support of its request to recover design change costs of \$70,345, which it claimed were incurred to implement the changes to its billing system required by Order No. 26,132. This request was significantly lower than Eversource’s preliminary estimate of approximately \$180,000. *See* Order No. 26,132 at 4. Eversource implemented the design changes effective October 1, 2018. Transcript of March 4, 2020, (Tr.) at 23. During the March 4, 2020, hearing, Eversource asked the Commission to approve the Settlement Agreement, under which Eversource would recover this full amount of \$70,345. Tr. at 9, 29.

### **B. Liberty**

Liberty submitted the testimony of Nicole M. Harris, Director of Customer Experience East Region for Liberty Utilities Service Company in support of its request to recover design change costs, which it claimed were incurred to implement the changes to its billing system

required by Order No. 26,132. Liberty originally requested recovery of \$195,666 in the joint petition. This request was higher than the approximately \$180,000 preliminary estimate Liberty provided to the Commission, in part because Liberty's estimate did not include burdens or the allowance for funds used during construction (AFUDC). *See* Order No. 26,132 at 4; Tr. at 12.

Liberty acknowledged during the March 4, 2020, hearing that, upon further refinement, its actual costs were approximately \$160,000. Tr. at 12. Liberty also concluded that some software and design adjustments for time-of-use calculations included in the \$160,000 were not directly related to adjusting EAP rate calculations for competitive supplier services. Liberty concluded that benefits from the time-of-use adjustments would flow beyond the EAP, and, as such, those costs should be recovered differently, i.e. not through the EAP fund mechanism. Tr. at 23. At the hearing, Liberty requested approval for recovery in the amount of \$140,000, consistent with the Settlement Agreement, stating that it would request recovery of the remaining costs (approximately \$20,000) in a pending rate case. Tr. at 12-13, 30.

Liberty implemented the automated design changes effective December 1, 2018. Tr. at 24. However, to meet the Commission's October 1, 2018, implementation deadline, Liberty processed EAP credits manually for competitive supply service from October 1, 2018, through November 30, 2018. Hearing Exhibit (Exh.) 2, Joint Testimony of Enderwick and Harris at 5.

### **C. Unitil**

As stated in the letter filed on October 12, 2018, Unitil did not request recovery of costs for design changes required to extend the EAP discount to the competitive energy supply portion of customer bills, although it did make adjustments to comply with Order No. 26,132. Unitil did not attend technical sessions or participate in discovery. Exh. 1, Settlement Agreement at 3.

**D. NHEC**

NHEC did not request recovery of costs for design changes required to extend the EAP discount to the competitive energy supply portion of customer bills. NHEC did not attend technical sessions or participate in discovery. *Id.*

**E. OCA**

The OCA attended technical sessions and engaged in the discovery process. The OCA appeared at the March 4, 2020, hearing in support of the Settlement Agreement. Tr. at 26-28. In the OCA's view, extending the benefit of competitive supply to low income consumers enrolled in the EAP program is a matter of fairness. The OCA, therefore, supported the use of EAP funds to allow Eversource and Liberty to recover the costs of necessary software and system design changes.

**F. Staff**

Staff attended technical sessions and engaged in the discovery process. Amanda O. Noonan, the Commission's Director of the Consumer Services and External Affairs Division, testified that the costs for Eversource and Liberty identified in the Settlement Agreement were prudently incurred and recommended that the Commission approve the agreement. Tr. at 16. Staff took no position as to whether Liberty's request for further recovery of costs not directly attributable to EAP design changes in a pending rate case were reasonable or prudent. Tr. at 25-26.

**III. SETTLEMENT AGREEMENT**

In the Settlement Agreement, the parties agreed that Eversource's costs in the amount of \$70,345 were prudently incurred and should be recovered from the EAP Fund. In addition, they agreed that Liberty had prudently incurred costs of \$140,000 to implement the changes required

by Order No. 26,132. The Settlement Agreement contained a table showing that an invoice had been incorrectly charged to Liberty's project, so that the correct total was \$160,753 rather than \$195,666. It also noted that Liberty agreed to seek recovery of \$140,000 from EAP funds in this docket and to request the remaining \$20,753 in a pending rate case.

Unitil and NHEC, as parties in this docket, signed the Settlement Agreement, even though they did not request the recovery of costs.

#### **IV. COMMISSION ANALYSIS**

Unless prohibited by law, parties may informally resolve a contested case at any time prior to the entry of a final decision by agreeing to a settlement. RSA 541-A:31, V(a). The Commission generally encourages parties to settle issues through negotiation and compromise, because it provides an opportunity for creative problem solving, allows parties to reach a result more in line with their expectations, and is often a better alternative to litigation. *Public Service Co. of N.H.*, Order No. 26,433 (December 15, 2020) at 18. Before approving a settlement agreement, however, the Commission must determine whether "the result is just and reasonable and serves the public interest." N.H. Admin. R., Puc 203.20(b).

Based on the parties' filings and the testimony presented at the March 4, 2020, hearing, we find that Eversource's and Liberty's requests for costs in the amounts of \$70,345 and \$140,000, respectively, were prudent, reasonable, and incurred solely to comply with Order No. 26,132. We find that the Settlement Agreement is just and reasonable and serves the public interest, because it reimburses Eversource and Liberty for the costs associated with implementing new billing systems, which resolved an inadvertent disadvantage to EAP participants receiving their electricity through competitive energy suppliers in contrast to EAP participants receiving their electricity through default energy service. Accordingly, we approve

the Settlement Agreement. By approving the Settlement Agreement, we make no finding regarding whether Liberty is entitled to recover any additional costs claimed to have been incurred in excess of the \$140,000 stipulated to have been incurred to comply with Order No. 26,132.

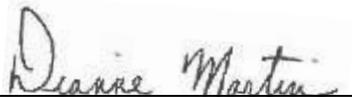
**Based upon the foregoing, it is hereby**

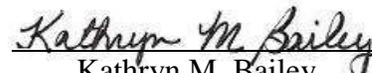
**ORDERED**, that the Settlement Agreement filed on March 2, 2020, is hereby APPROVED; and it is

**FURTHER ORDERED**, that Eversource is authorized to recover costs of complying with Order No. 26,132 in the amount of \$70,345 from the EAP Fund; and it is

**FURTHER ORDERED**, that Liberty is authorized to recover costs of complying with Order No. 26,132 in the amount of \$140,000 from the EAP Fund.

By order of the Public Utilities Commission of New Hampshire this first day of June, 2021.

  
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Dianne Martin  
Chairwoman

  
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Kathryn M. Bailey  
Commissioner

Attested by:

  
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Debra A. Howland  
Executive Director

## Service List - Docket Related

Docket#: 18-057

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