

**STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE d/b/a EVERSOURCE ENERGY

Docket No. DE 21-078

**SETTLEMENT AGREEMENT FOR APPROVAL OF ELECTRIC VEHICLE MAKE-
READY PROGRAM AND DEMAND CHARGE ALTERNATIVE RATE**

This settlement agreement is entered into by and among Public Service Company of New Hampshire d/b/a Eversource Energy (the “Company,” or “Eversource”), the New Hampshire Department of Energy (“DOE”), the New Hampshire Department of Environmental Services (“DES”), the Office of the Consumer Advocate (“OCA”), Clean Energy New Hampshire (“CENH”), Conservation Law Foundation (“CLF”) and ChargePoint, Inc. (“ChargePoint”) (collectively, “Settling Parties”). This settlement agreement resolves all issues among the Settling Parties and makes a unified recommendation for Commission approval of both the Company’s electric vehicle (“EV”) make-ready program and its demand charge alternative rate (“DCA”) for public commercial EV charging station customers. In support of this settlement agreement, the Settling Parties offer the following for the Commission’s consideration.

I. INTRODUCTION AND PROCEDURAL HISTORY

A number of executive and legislative efforts were launched starting in 2018 to advance EV adoption and development of EV infrastructure statewide. The Legislature enacted and the Governor signed into law SB 575, an act relative to electric vehicle charging stations, and SB 517, creating the Electric Vehicle Charging Stations Infrastructure Commission (“EV Commission”). Among other things, SB 575 required the Commission to determine whether demand charges would be appropriate to apply to electric vehicle charging stations. In August of 2020, in

investigatory Docket No. IR 20-004, the Commission issued Order No. 26,394, in which the Commission stated: “[W]e understand that demand charges may limit the economic viability of low utilization rate, high demand draw [Electric Vehicle Supply Equipment (“EVSE”)], but also acknowledge their role in limiting cost shifts between classes and customers . . . [and] we expect that utilities will consider demand charge alternatives in any high demand draw rate design proposals they may develop.” (Order 26,394 at 9).

As part of the mandate of SB 517, the EV Commission was to make recommendations on: development of zero emission vehicle technology and infrastructure, including installation of electric vehicle charging stations; the development of electric vehicle charging stations, including high-speed charging stations, in state and federal highway corridors and at public transportation hubs and parking garages, and; changes needed to state laws, rules, and practices, including building codes and public utilities commission rules, to further the development of zero emission vehicle technology and infrastructure.¹ By October 2020, the EV Commission had issued its final report and among its recommendations was authorizing public utilities to deploy EVSE make-ready programs.² The EV Commission specifically found that utility make-ready programs are particularly well-suited for enabling the advancement of EVSE deployment, and recommended the adoption of such programs.³ The Legislature expressed similar support for the important role utilities can play in EV infrastructure implementation when it passed SB 131 in July 2021, signed by the Governor on August 10, 2021.

¹ Final Report Electric Vehicle Charging Stations Infrastructure Commission Senate Bill 517 (2018), page 1, available at: <https://www.des.nh.gov/sites/g/files/ehbemt341/files/inline-documents/2020-12/20201030-final-report.pdf>.

² *Id.* at 6.

³ *Id.* at 7-8.

With SB 131, the General Court found:

I. Availability of electric vehicle supply equipment (EVSE) is critical to facilitating the development of the overall electric vehicle (EV) market in the region and will support our tourism-based economy. Adequate EVSE in New Hampshire, and in particular direct current fast chargers (DCFC) along major travel corridors in the state, is necessary to enable travel within and through the state, promote tourism, generate jobs, and support consumers, businesses, and automobile dealers and manufacturers. The state should commit to the development of zero emission vehicles (ZEV) technology and infrastructure, including the state, private and rental residence, business, and municipal installation of EVSE.

II. Electric utility investments in grid infrastructure to support the installation of EVSE lowers the barriers to such installation. Electric distribution companies (EDC) are uniquely positioned to enable strategic electrification as part of larger investments in grid modernization capabilities, specifically investments in electric vehicle charging infrastructure. EDC owned or funded behind the meter enabling infrastructure, also known as “make-ready” infrastructure, can accelerate charging infrastructure deployment, and it has the potential to put downward pressure on rates by spreading fixed costs over a greater volume of electric sales.

Executive branch efforts included the issuance on September 7, 2018 of the State of New Hampshire Beneficiary Environmental Mitigation Plan, in which Governor Sununu designated the Governor’s Office of Strategic Initiatives (now part of the DOE) to serve as lead agency and to work with the DES to develop plans to deploy the VW Trust Mitigation Fund.⁴ The Mitigation Plan includes this mission statement: “To best serve the state’s economic and social well-being New Hampshire will focus on those projects that will result in broad public benefits, serve the state’s economically challenged communities and make the state a welcoming environment for all ages, abilities and backgrounds to live, work, and play.”⁵ Included in those projects was “[s]upport[ing] the use of zero emission and near-zero emission vehicles by investing in electric vehicle charging infrastructure at strategic locations throughout the state and encouraging the replacement of diesel vehicles and equipment with lower emission alternatives, including those

⁴ DES was subsequently made the lead agency by the Governor in August 2021 to manage the VW Mitigation Trust.

⁵ State of New Hampshire Beneficiary Environmental Mitigation Plan September 7, 2018, page 4, available at: <https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/beneficiary-mitigation-plan.pdf>.

powered by electric and other alternative fuels.”⁶ The DES has implemented such a project via the Volkswagen Mitigation Trust by issuing a Direct Current Fast Charging (“DCFC”) Request for Proposals (“RFP”). The purpose of the RFP is to address the need for EV charging infrastructure to enable EV travel to and within New Hampshire and to encourage EV adoption. In response, the DES received 30 applications.⁷

In October of 2020, Eversource reached a comprehensive settlement agreement with ten settling parties in its distribution rate case, Docket No. DE 19-057. The Commission approved the rate case settlement agreement in Order No. 26,433 (December 17, 2020). Section 16.4 of the rate case settlement agreement committed the Company to collaborating with interested parties to that docket as well as other stakeholders to develop both an EV make-ready infrastructure program and a proposal for an “alternative to demand charges for electric vehicle charging rates” so that both could support the development of EV infrastructure. (Docket No. DE 19-057 Settlement Agreement at page 32, docket tab 125). The rate case settlement agreement also required the Company to develop the DCA for EV rates unless “the Commission determines otherwise in the adjudicative proceeding announced in Order No. 26,394 (August 18, 2020) in Docket No. IR 20-004.” *Id.* The Commission conducted such a proceeding in Docket No. DE 20-170, in which the Commission ultimately ordered the implementation of both residential and commercial EV time of use (“TOU”) rates by all New Hampshire utilities. *See* Order No. 26,604 (April 7, 2022). But at no time did the Commission determine that Eversource should abandon its proposed DCA for EV charging station customers, and in fact the DCA addresses a different set of customer needs than do the TOU rates.

⁶ *Id.*

⁷ <https://www.des.nh.gov/business-and-community/loans-and-grants/volkswagen-mitigation-trust>.

Eversource filed its EV make-ready and DCA proposals on April 15, 2021. Prior to that filing, Eversource spent several months designing both proposals, including a series of meetings with interested stakeholders, including all of the parties in this docket. During the numerous conversations with stakeholders, particularly those who represented public charging station customers or EVSE supply companies, two primary, prohibitive market barriers were repeatedly identified: demand charges and start-up costs of the equipment for charging stations. According to those stakeholders, given the current low EV utilization rates in New Hampshire, the EV charging business is not yet robust enough to meet these costs and create a viable business case. Therefore, stakeholders requested that the Company develop its proposals to focus specifically on these two market barriers. This input combined with the state initiatives and directives became the basis for the proposals made in this docket.

After the proposals were filed on April 15, 2022, the OCA filed a letter of participation, DOE entered an appearance, and DES, CENH, CLF and ChargePoint all filed timely motions to intervene. A prehearing conference took place as scheduled on August 25, 2021. The parties met after the prehearing conference to agree upon a procedural schedule that was filed with the Commission and approved on September 10, 2021. The procedural schedule included three rounds of discovery to be served on the Company, three technical sessions, and an opportunity for other parties to the docket to submit testimony.

The procedural schedule originally approved by the Commission did not provide for rebuttal testimony. To address that omission, and to increase the likelihood of settlement, Eversource filed an assented-to motion to amend the procedural schedule on March 18, 2022, which the Commission granted on March 31, 2022. The amended procedural schedule provided for two additional technical sessions at which settlement discussions could also occur. Eversource

filed rebuttal testimony on April 25, 2022, and settlement discussions commenced on May 11, 2022 on the second of the two additional technical sessions. Settlement discussions continued through June 2022.

The purpose of section 16 of the settlement agreement in Docket No. DE 19-057, as well as the intent of the Settling Parties in this docket, is to reduce or eliminate two market barriers to statewide EV infrastructure development: demand charges and up-front EVSE costs. The Settling Parties agree that both of the Company's proposals, deployed in tandem, and subject to the terms and conditions specified in this settlement agreement, will achieve those ends consistent with and in furtherance of existing state policies, without creating unjustified or unfair cost-shifting or subsidies, and are in the public interest.

II. SETTLEMENT TERMS

A. Demand Charge Alternative Rate for Public EV Charging Stations

The Settling Parties agree that Eversource's EV DCA rate addresses the market barrier of demand charges (identified by stakeholders as a primary barrier to market viability) for public EV charging stations in New Hampshire by offering a purely volumetric rate as depicted in Attachment A to this settlement agreement. Attachment A employs the design included in the Company's original proposal, updated to reflect pricing currently in effect. Because the basis of the DCA design is Eversource's general service Rate GV, when any rate components to Rate GV are updated, the DCA will likewise be updated to reflect the changes in those rate components. The Settling Parties agree that there is sufficient analysis to support the conclusion that the DCA rate will likely collect sufficient revenue to avoid unjust cost-shifting among customer classes. Revenue generation and bill impact comparisons among the DCA, Rate GV, and the Commercial EV TOU rate are provided in Attachment B to this settlement agreement. For these reasons, the

Settling Parties stipulate and agree that Commission approval of the DCA, subject to the terms and conditions specified in this settlement agreement, would be just, reasonable, and in the public interest.

The Company agrees to implement the DCA as an optional rate, to be offered in parallel with the optional Commercial EV TOU rate and general service Rate GV. The Settling Parties stipulate and agree that these two optional rates address distinctly different issues and apply to differing end uses and are therefore are not redundant to one another. Specifically, the DCA applies to a smaller subset of customers with particular market challenges that the DCA is designed to address. To ensure access to the DCA for all appropriate customers for which the rate was designed, and only to those customers, eligibility to enroll in the DCA shall include the following:

(1) the customer must have separately metered service, with at least 90 percent of the load at that meter dedicated to EV charging, that has sufficient total load to otherwise qualify for Eversource's Rate GV (over 100 kW demand); and

(2) the customer must have "publicly accessible" EV charging equipment, meaning that the charging equipment is available to the public without restriction. A potential participant in the DCA rate offering that restricts charging equipment access to customers of the premises (e.g., restaurant patrons or other business visitors, tenants, or employees) shall not qualify as "publicly accessible" and shall not be eligible for the DCA.

Details of the rate structure as well as qualifications for eligibility to take the DCA rate are provided in the illustrative tariff pages included as Attachment C to this settlement agreement.

The Eversource DCA shall be available for an initial period of three years following its approval by the Commission. Following the end of that three-year term, no new public charging station customers would be eligible for the initial DCA rate design, but existing public charging

station customers would continue to be served under the initial DCA rate until the following process has been completed. In three years from Commission approval of the DCA, Eversource shall complete a cost-of-service study (“COSS”) or similar type of analysis regarding the DCA customers and make the results of that study or analysis available to the Settling Parties. If appropriate, based on the results of the COSS or similar type of analysis and taking into account customer needs and market conditions at that time, Eversource shall file with the Commission a summary of its study and analysis and Eversource’s recommendation as to whether the DCA rate should be redesigned, discontinued, or continued in effect for an additional period of time. The Company shall file the summary and recommendation within four months of the end of the initial three-year offering. The DCA rate shall be redesigned, discontinued, or continued in effect for an additional period of time only upon Commission approval following an adjudicated proceeding. If the rate is redesigned or discontinued, all existing DCA customers would then be transitioned to the redesigned rate or to an alternative rate such as Rate GV or the Commercial EV TOU rate—no customers shall remain “grandfathered” on the initial DCA rate. Any future iteration of the DCA would be available to all eligible customers as defined in this settlement agreement. During the three-year period of the initial offering, Eversource shall track and report on an annual basis the number and locations of customers on the DCA rate and each such customer’s peak demand, utilization level, and load profile.

The Company estimates that it can implement the DCA using one of its automated billing systems for approximately \$100,000, which the Company has determined to be the lowest-cost method of implementation. Implementation work is estimated to take four months from Commission approval of this settlement agreement. To complete this work, Eversource requests and the Settling Parties support that the Commission allow the Company to treat any incremental

costs of implementation of the DCA as a regulatory asset, so that all prudently-incurred costs may be recovered in the Company's next distribution rate case.

B. EV Make-Ready Infrastructure Program

The Settling Parties recommend that the Commission approve Eversource's \$2.1 million EV make-ready infrastructure program as proposed in the Company's original filing, the supporting documentation to which is included in this settlement agreement as Attachment D, subject to the terms and conditions of this settlement agreement, as approval of that program is not expected to result in unreasonable cross-subsidization but instead would be just, reasonable, in the public interest, and consistent with current state policies and objectives. The Settling Parties are aware that, in Order No. 26,623 (May 3, 2022) the Commission rejected a make-ready program proposed by Unitil, but the Settling Parties note that Eversource's make-ready program differs from the Unitil program in several salient ways that balances fairness in relation to any potential cross-subsidy and ensures the overall public interest. While approval of the \$2.1 million make-ready program will directly benefit less than a dozen public charging station customers, the costs of which shall be spread across over 540,000 Eversource customers, the indirect benefits will inure to all customers,⁸ as well as the State itself, as the program will advance the benefits of the policy objectives endorsed by the Governor and the Legislature, as stated in SB 131, to "enable travel within and through the state, promote tourism, generate jobs, and support consumers, businesses, and automobile dealers and manufacturers."

The Settling Parties agree that Eversource's make-ready program design to pair make-ready funding to VW Trust Mitigation Fund awardee charging sites will directly advance the state's objective to facilitate the development of EVSE statewide, as these sites were selected by

⁸ See Testimony of Edward A. Davis, Brian J. Rice, and Kevin M. Boughan, Attachment D at page 9.

DES as meeting the necessary criteria to foster state objectives for EV infrastructure growth and deployment, but awardees have identified a need for make-ready funding in addition to the VW Trust award to create a viable business case. The Settling Parties agree that sites selected for make-ready funding will not be competing with existing 24-hour publicly accessible charging stations, as the RFP issued by DES specified that no stations within 20 miles of an existing publicly accessible station would be selected for funding. Rather, the Settling Parties maintain that the Company's make-ready program is well-positioned to expand EVSE strategically by enabling "fast charging" along high-travel corridors throughout New Hampshire, thereby making EV charging more competitive statewide by serving as a catalyst for growth for EV use and contributing to the statewide economy. For those reasons, the Settling Parties believe that Eversource's make-ready program will serve the public interest.

The Settling Parties stipulate and agree that Eversource may recover capital costs of the make-ready program through its next distribution rate case, and that all prudently-incurred operations and maintenance (O&M) expense related to the program⁹ be recovered either through a reconciling rate mechanism, or deferred through the creation of a regulatory asset for recovery in the Company's next distribution rate proceeding.¹⁰

C. Implementation

Lastly, the Settling Parties respectfully request that the Commission issue an order approving the Eversource make-ready program and DCA rate as soon as possible, but no later than August 15, 2022, as DES has already selected the VW Trust awardees, and will be entering into contracts soon for those charging sites to begin construction work. To effectively deploy the make-

⁹ See Testimony of Edward A. Davis, Brian J. Rice, and Kevin M. Boughan, Attachment D page 4, for a list of estimated O&M expenses (including behind the meter infrastructure, data collection, and program evaluation).

¹⁰ *Id.* at pages 6, and 8-9.

ready funding, which is needed for many of those sites to be viable, the Company must implement the make-ready program by early Fall. And because the DCA rate will take four months to implement into the Company's billing system, work must begin as soon as possible so that the rate will be ready to offer when construction on those sites is complete.

III. GENERAL PROVISIONS

The Settling Parties agree that all testimony and supporting documentation may be admitted as exhibits for purposes of consideration of this settlement agreement. Assent to admit all direct testimony without challenge does not constitute agreement by the Settling Parties that the content of the written testimony is accurate nor is it indicative of what weight, if any, should be given to the views of any witness. Reflecting the intent of this settlement agreement, the Settling Parties agree to forego cross-examining witnesses of the Settling Parties regarding their pre-filed testimony and, therefore, the admission into evidence of any witness's testimony or supporting documentation shall not be deemed in any respect to constitute an admission by any party to this settlement agreement that any allegation or contention in this proceeding is true or false, except that the sworn testimony of any witness shall constitute an admission by such witness.

This settlement agreement is expressly conditioned upon the Commission's acceptance of all of its provisions without change or condition. All terms are interdependent, and each Settling Party's agreement to each individual term is dependent upon all Settling Parties' agreement with all terms. If such complete acceptance is not granted by the Commission, or if acceptance is conditioned in any way, each of the Settling Parties shall have the opportunity to amend or terminate this settlement agreement or to seek reconsideration of the Commission's decision or condition. If this settlement agreement is terminated, it shall be deemed to be withdrawn and shall be null and void and without effect and shall not constitute any part of the record in this proceeding


nor be used for any other purpose. The Settling Parties recommend approval of this settlement agreement before the Commission. The Settling Parties also agree that they shall not oppose this settlement agreement before any regulatory agencies or courts before which this matter is brought, but shall take all such action as is necessary to secure approval and implementation of the provisions of this settlement agreement.

The Commission's acceptance of this settlement agreement does not constitute continuing approval of or precedent regarding any particular issue under this docket, but such acceptance does constitute a determination that this settlement agreement and each and all of its provisions are just and reasonable. All discussions leading to and resulting in this settlement agreement have been conducted with the understanding that all offers of settlement and discussion relating to these terms are and shall be protected and treated as confidential and privileged, and shall be so without prejudice to the position of any party or participant representing any such offer or participating in any such discussion, and are not to be used in any manner in connection with this proceeding, any further proceeding, or otherwise. Finally, the Settling Parties reiterate that approval by the Commission and implementation of the DCA rate and make-ready infrastructure program as proposed in this settlement agreement are just and reasonable.

This Agreement may be executed by facsimile or electronically and in multiple counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall constitute one agreement binding on all of the Settling Parties.

IN WITNESS WHEREOF, the Settling Parties have caused this Agreement to be duly executed in their respective names by their authorized representatives, each being fully authorized to do so on behalf of the party represented.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE D/B/ A EVERSOURCE ENERGY

By:  _____ July 7, 2022
Jessica Chiavara, Esq.
Counsel

NEW HAMPSHIRE DEPARTMENT OF ENERGY

By: /s/ David Wiesner _____ July 7, 2022
David Wiesner, Esq.
Legal Director, Senior Hearings Examiner


NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES

By: _____ July 7, 2022
Craig A. Wright
Director, Air Resources Division

OFFICE OF THE CONSUMER ADVOCATE

By: _____ July 7, 2022
Donald M. Kreis
Consumer Advocate

CLEAN ENERGY NEW HAMPSHIRE

By:  _____ July 7, 2022
Elijah D. Emerson, Esq.
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CONSERVATION LAW FOUNDATION

By: ___/s/ Nicholas Krakoff _____
Nicholas Krakoff, Esq.
Staff Attorney

July 7, 2022


CHARGEPOINT, INC.

By: ___/s/ Nikhil Vijaykar _____
Nikhil Vijaykar, Esq.
Attorney for ChargePoint, Inc.
Keyes & Fox LLP
580 California St., 12th Floor
San Francisco, CA 94104

July 7, 2022

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Counsel

TABLE OF ATTACHMENTS

Attachment A: Demand Charge Alternative Rate Design

Attachment B: Bill and revenue comparisons among Rate GV, Commercial EV TOU and the Demand Charge Alternative

Attachment C: Clean and redlined tariff pages

Attachment D: Eversource Make-Ready Proposal