

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 21-136

**TOWN OF HANOVER
Hanover Town Hall
P.O. Box 483
Hanover, NH 03755**

Request for Approval of Hanover Community Power Aggregation Plan

Memorandum of Decision re: Request for Plan Approval

O R D E R N O. 26,563

January 7, 2022

In this decision, the Commission determines that the Hanover Community Power Electric Aggregation Plan fails to meet certain applicable statutory requirements without prejudice, invites the Town of Hanover to participate in the upcoming rulemaking proceeding regarding electric power supply aggregation, and encourages the Town of Hanover to re-submit an amended plan when the rulemaking process is closer to completion or has concluded. The Commission observes that the Plan has been the result of a thoughtful and rigorous process at the municipal level and commends the parties on the resulting Plan. The Commission wishes to encourage such community power aggregation because it will result in a more competitive market and greater customer choice.

I. BACKGROUND

On November 8, 2021, the Town of Hanover (Hanover) submitted a request for approval of a community power aggregation plan to provide electric power supply and services for residents, businesses, and other entities in the Town of Hanover pursuant to RSA chapter 53-E. Accompanying its request, Hanover submitted the text of its Hanover Community Power Electric Aggregation Plan (Plan) with attachments.

On November 16, 2021, the Office of the Consumer Advocate filed a letter of participation in this matter. No comments or other filings were received in this matter.

Hanover's request, along with all other filings and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, will be posted to:

<https://www.puc.nh.gov/Regulatory/Docketbk/2021/21-136.html>

II. COMMISSION ANALYSIS

The Commission has reviewed Hanover's Plan pursuant to RSA 53-E:7, II, as amended, which states that "[t]he commission shall approve any plan submitted to it unless it finds that it does not meet the requirements of this chapter and other applicable rules and shall detail in writing addressed to the governing bodies of the municipalities or counties concerned, the specific respects in which the proposed plan substantially fails to meet the requirements of this chapter and applicable rules." RSA 53-E:7, II also provides specific direction on the process to be used for the submission of such plans, including the following requirements: 1) on the same day the plan is submitted to the Commission, copies shall be provided to the Office of the Consumer Advocate and any electric distribution utility providing service within the jurisdiction of the municipality; 2) the Commission shall accept public comments for 21 days thereafter; and 3) the Commission's review of the plan and comments shall not require a contested case.

As noted above, no comments have been received in this matter.

1) Compliance with Filing Requirements

As a preliminary matter, RSA 53-E:7, II requires submission of the Plan to any electric distribution utility providing service within the jurisdiction of the municipality on the same day the plan is submitted to the Commission. Based on the filing, it is not

clear that this requirement was met. As a result, we cannot approve the Plan at this time and must require re-filing of the Plan with proof of distribution to all entities listed in the statute.

2) Security for Individual Customer Data

RSA 368:38, IV requires that service providers, including Community Power Aggregators, use reasonable security procedures and practices to protect individual customer data from unauthorized access, use, destruction, modification, or disclosure. On page 16 of the Plan, Hanover acknowledges this requirement, but states only that the Plan will not be subject to disclosure under RSA chapter 91-A and that contractors will be required to protect customer data. The Plan, as filed, substantially fails to meet the applicable statutory standards in this regard. The Commission requires additional detail on the scope and nature of the customer data that will be in the possession, custody, and control of Hanover or its contractors, and the protective measures that will be utilized to protect that data from unauthorized access, use, destruction, modification, or disclosure.

3) Incorporation of Future Rules

RSA 53-E:7, X provides that the “commission shall adopt rules, under RSA 541-A, to implement this chapter... Such rules shall include but not be limited to rules governing the relationship between municipal and county aggregators and distribution utilities, metering, billing, access to customer data for planning and operation of aggregations, notice of the commencement or termination of aggregation services and products, and the reestablishment of a municipal or county aggregation that has substantially ceased to provide services.” The applicable rulemaking process was initiated on January 5, 2022 in Docket No. DRM 21-142, and may result in additional requirements that could have substantive impacts on the Commission’s evaluation of

the Plan. The Plan makes multiple references to such yet to-be-adopted rules, and states that “The program will not launch until regulations governing Community Power are adopted by the [Commission].” Plan at 3. We believe that the establishment of statewide rules applicable to community power aggregations are needed, and that RSA chapter 53-E requires such rules to ensure that the statutory provisions for such plans are satisfied with consistency and uniformity.

Moreover, we note that the Plan lacks sufficient detail on Hanover’s interactions with utilities and their customers. We also note that this topic is addressed in great detail in the initial rulemaking proposal, and that the rulemaking process is likely to address our concerns relating to balancing the interests of electric distribution utilities and their customers, with those of municipalities such as Hanover.

Therefore, to the extent that the Plan relies on future rules, we conclude that the proposed Plan fails to meet applicable statutory requirements. As the rulemaking proceeding to develop these rules has just commenced, this deficiency is not the Town’s fault. However, we cannot find the Plan sufficient at this time. The Commission intends to work expeditiously with stakeholders to develop and implement rules to enable community power aggregations under RSA chapter 53-E.

4) Operation, Funding, and the Methods of Entering and Terminating Agreements

Lastly, with respect to the “operation and funding” and “methods of entering in to and terminating agreements” criteria of evaluation, *see* RSA 53-E:6, III(b) and (d), it is unclear whether Hanover or the New Hampshire Community Power Coalition intend to serve as the Load Serving Entity (LSE), or whether that function will be contracted out, and if so, by which entity. We conclude that more detail describing the structure of LSE and how the LSE services will be implemented, is necessary and should be addressed within subsequently filed versions of the Plan.

5) Conclusion

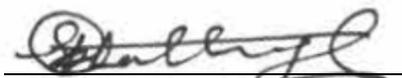
Therefore, we conclude that the Plan as filed substantially fails to meet statutory requirements in RSA chapter 53-E. We encourage the Town to participate in the Docket No. DRM 21-142 rulemaking process and to re-submit a more refined plan when the rulemaking process is closer to completion or has concluded. The Commission intends to work promptly and efficiently with stakeholders to enable community power aggregations through the rulemaking.

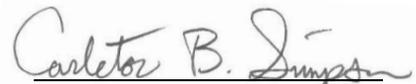
Based upon the foregoing, it is determined

That the Town of Hanover's Request for Plan Approval is DENIED without prejudice,

By order of the Public Utilities Commission of New Hampshire this seventh day of January, 2022.


Daniel C. Goldner
Chairman


Pradip K. Chattopadhyay
Commissioner


Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket# : 21-136

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