



June 13, 2023

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

Re: Conservation Law Foundation’s Final Comments in Docket No. IR 22-076

Dear Chairman Goldner,

Thank you for the opportunity to submit these final comments in Docket No. IR 22-076, the Commission’s Investigation of Whether Current Tariffs and Programs are Sufficient to Support Demand Response and Electric Vehicle (“EV”) Charging Programs. Conservation Law Foundation (“CLF”) supports the Commission’s decision to conduct a three-month investigation into the issues raised in this docket, which includes several rounds of comment opportunities for participants, prior to the Commission initiating an adjudicative phase. In these final comments, CLF addresses several issues that arose in participants’ reply comments. CLF incorporates by reference its initial and reply comments in this docket in these final comments.

1. The Commission Should Consider Winter Demand Response Programs.

In response to CLF’s initial comments in which it asserted that the Commission should explore winter demand response comments, both Eversource and Unitil argue that because ISO-NE’s system is currently summer peaking, winter demand response programs provide limited to no opportunity for system peak load reductions or ratepayer benefits.¹ Demand response incentives have historically rested on the ability to reduce annual system peak and, therefore, reduce capacity requirements/costs.² Although winter load reductions may have limited effect on capacity requirements—under current incentive programs and as long as ISO-NE remains a summer peaking system—winter load reductions provide significant benefits.³ These include energy cost savings, emissions reductions, and improved reliability benefits.⁴ Adjusting the cost-

¹ Eversource Reply Comments, at 2 (May 9, 2023, Docket No. IR 22-076); Unitil Reply Comments, at 2 (May 9, 2023, Docket No. IR 22-076).

² Barriers to Demand Response, CT DEEP Technical Meeting—Comprehensive Energy Strategy, CPower, at Slide 83-84 (Nov. 3, 2022), available at https://portal.ct.gov/-/media/DEEP/energy/ConserLoadMgmt/Master-Slide-Deck_TM-5_DR.pdf.

³ *Id.* at 84.

⁴ *Id.*

benefit test used for evaluating retail demand response programs could potentially better account for the benefits provided by winter demand response programs.⁵

During Winter Storm Elliott on December 23-24, 2022, oil fired generation surged from meeting just a small fraction of ISO-NE's overall electricity demand to over 30%, which contributed to electricity prices significantly increasing during that period.⁶ Increased implementation of demand response programs, however, can lower consumer costs during extreme weather events like Winter Storm Elliott, by reducing expenditures on costly fuels like oil, as well as result in health and climate benefits through a reduction in carbon and other emissions from more polluting fossil fuel sources.⁷

Demand response programs also can be used to enhance New England's winter reliability.⁸ For example, reducing electric consumption reduces the consumption of gas, oil, and other fuels, thereby conserving those fuels and reducing overall reliance on imported fuel sources. The Federal Energy Regulatory Commission ("FERC") recognized the benefit of demand response programs to New England's winters system reliability in approving a NEPOOL proposal on winter reliability that incorporated demand response programs to reduce use of power during times of system stress.⁹ FERC explained that "demand response resources can be dispatched at times when generator availability risks due to fuel uncertainty are highest thereby providing additional reliability to the grid by helping ISO-NE to avoid resource unavailability at times when the system is stressed."¹⁰ Finally, demand response programs provide resilience to extreme weather conditions, helping avoid costly and dangerous outages.¹¹

Accordingly, the Commission should not discount the potential for winter demand response programs to achieve energy cost savings, emissions reductions, and reliability and resiliency benefits. As part of its continuing investigation, the Commission should explore ways to modify traditional demand response incentives to properly compensate for the benefits resulting from demand response programs.

⁵ *Id.*

⁶ December 24, 2022 OP-4 Event and Capacity Scarcity Condition, ISO-NE, at Slide 14-15 (Jan. 5, 2023), available at <https://www.iso-ne.com/static-assets/documents/2023/01/december-2022-op4-coo-report.pdf>

⁷ See Acadia Center *et al.*, *New England's Winter Electricity Challenges Call for a Clean Energy Solution*, 4-5 (2022), available at

https://www.sierraclub.org/sites/default/files/2563%20NE%20Winter%20Reliability%20WP%2003_web.pdf;

Environmental Benefits of Demand Response, Great Plains Institute, at 1 (Winter 2014-15), available at <https://www.betterenergy.org/wp-content/uploads/2018/03/DR-Fact-Sheet-2-Environmental-Benefits-of-DR.pdf>.

⁸ Acadia Center *et al.*, *New England's Winter Electricity Challenges Call for a Clean Energy Solution*, 4-5 (2022).

⁹ ISO-NE Inc. and NEPOOL, 152 FERC ¶ 61,190, at 21 (Sept. 2015).

¹⁰ *Id.*

¹¹ Demand Response and Resilience to Extreme Weather, ENEL (Jan. 18, 2023),

<https://www.enelnorthamerica.com/insights/blogs/demand-response-and-resilience-to-extreme-weather>.

2. Time-of-Use Rates that Are Opt-Out are More Successful in Reducing Load.

In response to CLF's initial comments that stated that the Commission should prioritize the adoption of time-of-use ("TOU") rates that are opt-out, Eversource and Unitil assert that opt-out TOU rates have the potential to result in customer confusion.¹² Unitil also argues that customers may not understand the complexities of time varying rates or have an interest in adjusting their usage patterns to take advantage of such rates.¹³

It is well-established that TOU rates that are opt-out have much higher enrollment rates than opt-in TOU rates. For example, one study by the Regulatory Assistance Project finds that TOU rates that are opt-out are likely to lead to enrollment levels that are three to five times higher than opt-in TOU rates.¹⁴ A similar study by the American Public Power Association explains that opt-in TOU rates may only reach 10% enrollment, while opt-out TOU rates can often exceed 90%.¹⁵

Undoubtedly, to avoid customer confusion and frustration, implementation of an opt-out TOU rate transition requires extensive and robust customer education and marketing.¹⁶ There are several ways to manage the transition including: (1) dual or shadow billing, where customers initially remain on traditional billing but are provided information on potential savings on monthly bills; (2) guarantees to customers that they will be charged on the tariff that provides them with the lowest annual bill during the transition period; and (3) multi-year data that compares bills across traditional and TOU rates.¹⁷

Because TOU rates that are opt-out lead to much higher enrollment levels, they provide a better tool for demand reduction than opt-in TOU rates. Accordingly, to the extent the Commission further considers TOU rate adoption as part of its investigation into demand response programs, it should explore the possibility of opt-out TOU rates.

¹² Eversource Reply Comments, at 2 (May 9, 2023, Docket No. IR 22-076); Unitil Reply Comments, at 1 (May 9, 2023, Docket No. IR 22-076).

¹³ Unitil Reply Comments, at 1 (May 9, 2023, Docket No. IR 22-076). Unitil also contends that CLF's statement that "the lack of AMI in the three utilities' service territories" is not accurate with respect to Unitil. *Id.* at 2. CLF did not intend to suggest that Unitil has not successfully deployed AMI in its service territory; rather, CLF's statement was a reflection of the state of AMI deployment across New Hampshire and the utilities' service territories as a whole.

¹⁴ Jim Lazar & Wilson Gonzalez, Smart Rate Design for a Smart Future, Regulatory Assistance Project, at 55 (July 2015), available at <https://www.raponline.org/wp-content/uploads/2016/05/rap-lazar-gonzalez-smart-rate-design-july2015.pdf>.

¹⁵ Moving Ahead with Time of Use Rates, American Public Power Association (2020) available at <https://www.publicpower.org/system/files/documents/Moving-Ahead-Time-of-Use-Rates.pdf>; See also Time of Use as a Default Rate for Residential Customers: Issues and Insights, Smart Grid Investment Grant: Consumer Behavior Study Analysis, at xx (June 2016) (noting that opt-in TOU rates may only reach 20% enrollment, while opt-out TOU rates can exceed 90%), available at <https://emp.lbl.gov/publications/time-use-default-rate-residential>.

¹⁶ Jim Lazar & Wilson Gonzalez, Smart Rate Design for a Smart Future, Regulatory Assistance Project, at 55 (July 2015).

¹⁷ *Id.*

3. The Commission Should Open an Adjudicative Docket on EV Managed Charging Programs.

As CLF noted in its reply comments in this docket, there is a relative consensus in this docket on the need for EV managed charging programs. EV managed charging programs can reduce or eliminate the need for distribution system upgrades, as well as commensurate rate increases, that might be necessitated by increased load resulting from EV charging. Therefore, based on the benefits of and the general consensus among the parties on EV managed charging programs, the Commission should open a new adjudicative docket to consider proposals from the utilities on EV managed charging programs. However, because it is generally infeasible for public charging stations and public charging station users to curtail charging demand during times of peak load,¹⁸ the Commission should limit its consideration of managed charging programs to residential and fleet EV customers only.

4. Conclusion

CLF appreciates the opportunity to offer these comments and the Commission's decision to schedule several comment opportunities during the investigatory phase of this docket. CLF looks forward to continuing to participate in this docket. However, CLF wishes to inform the Commission that due to the scheduling of an organization-wide retreat and training that will take place all day on June 15, CLF will be unable to attend the status conference that is scheduled on the same day in this docket.

Sincerely,

/s/ Nick Krakoff

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¹⁸ See Eversource Initial Comments, at 12 (Mar. 21, 2023, Docket No. IR 22-076).