



**OFFICE OF THE CONSUMER ADVOCATE**  
21 S. Fruit Street., Suite 18  
Concord, New Hampshire 03301-2429

Website:  
[www.oca.nh.gov](http://www.oca.nh.gov)

April 3, 2024

New Hampshire Public Utilities Commission  
21 South Fruit Street, Suite 10  
Concord, New Hampshire 03301

Via e-mail to: [ClerksOffice@puc.nh.gov](mailto:ClerksOffice@puc.nh.gov)

Re: Docket No. DE 23-044  
Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty  
Default Energy Service Solicitations

To the Commission:

As you know, on March 29, 2024, the Commission issued Order No. 26,984 in the above-captioned proceeding, authorizing and directing the subject utility to include in its next semi-annual default energy service procurement for its small customer class a 20-percent tranche consisting of energy purchased via the ISO New England day-ahead and real-time markets. The Commission opined that this experiment will “offer savings for Liberty default service customers,” “offer a valuable process for a market-based procurement approach,” and “produce rates that are predictable, transparent, and reflective of energy market conditions.” Order No. 26,984 at 6.

One additional piece of business remains pending in the docket. At the Commission’s March 20, 2024 hearing in this docket, at the suggestion of the Office of the Consumer Advocate (“OCA”), Chairman Golder offered both the OCA and the Department of Energy an opportunity to make filings by April 3, 2024 opining on broader questions related to the future of default energy service. Tr. 3/20/2024 (tab 68) at 71, line 18 to 72, line 12; see also *id.* at 75, lines 3-12 (encouraging OCA and the Department to consider a “long-term view” of default energy service “assuming the community [power] aggregation takes hold, which it certainly looks like it is”).

The Office of the Consumer Advocate is pleased to submit the attached memorandum, written by Director of Economics and Finance Marc Vatter, PhD, in response to the Commission’s invitation. In the memorandum, Mr. Vatter accepts the Commission’s stated premise – that community power aggregation represents a significant development in the realm of retail electricity supply, and one that is likely a permanent aspect of the retail marketplace – and makes two significant recommendations based in part on that premise. First, Mr. Vatter urges the Commission to discontinue the longstanding practice of discouraging default energy service from becoming an attractive alternative to competitive energy supply. Second, he recommends that the Commission explore the possibility of no longer offering retail supply from both community power and utility-provided default energy service in communities that have Commission-approved community power aggregation plans in place.

In the immediate wake of the Commission’s March 20 hearing and on the same day as the Commission’s March 29 order in this docket, the Department issued its long-awaited report from Exeter Associates entitled “Solicitation and Procurement of Default Electric Service in New Hampshire” (“Exeter Associates Report”).<sup>1</sup> The OCA has not fully analyzed this 104-page document, which recommends very few changes to default energy service procurement beyond the possible adoption of ‘laddered’ wholesale contracts (but only, as noted at page 2 of the report, “if key stakeholders value market reflectiveness higher than rate stability”) and the possible hiring by the Department of an independent advisor to (as noted at page 72 of the report) “support the assessment and approval of default service bids.” Exeter Associates finds support for this relatively cautious approach in the language of the Restructuring Act, RSA Chapter 374-F, originally adopted in 1996. We agree with Exeter Associates that when the General Court invented the concept of default energy service in 1996, it imagined a retail product that would serve as a mere backstop to support customers, both small and large, who would be doing business routinely and predominantly with competitive energy suppliers.

As Mr. Vatter explains in his memorandum, the market for retail electric supply, at least for small customers, has not developed in the manner imagined by the General Court nearly three decades ago. The Office of the Consumer Advocate therefore believes it is in the best interests of residential electric customers, and permissible within the flexible language of RSA 374-F, for there to be a comprehensive reevaluation of both the nature and sources of default energy service in New Hampshire. Although we do not believe it is necessary to amend the Restructuring Act to reinvent default energy service, should the Commission or the New Hampshire Supreme Court disagree we are prepared to seek legislative action.

We consider our filing today to be another step in an ongoing process whose objective is to develop a new consensus about the provision of default energy service. We reserve the right to express additional opinions once we have had an opportunity to review the Exeter Associates Report fully. Though we offer specific recommendations today, we anticipate ongoing dialogue and are willing to reconsider our views as new insights and clarifications emerge in the coming months. We thank both the Commission and the Department for the opportunity to participate in this important public conversation.

Sincerely,



Donald M. Kreis  
Consumer Advocate

cc: Service List, via e-mail

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<sup>1</sup> The cover of the Exeter Associates Report bears a date of March 28, 2024 but the Department circulated the report via e-mail on the following day.