

STATE OF NEW HAMPSHIRE



CONSUMER ADVOCATE
Donald M. Kreis

TDD Access: Relay NH
1-800-735-2964

Tel. (603) 271-1172

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

Website:
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

Re: Docket No. DE 23-063
Joint Utility Petition for Waiver of Certain Provisions of the Puc 2200 Rules

To the Commission:

Please treat this letter as the response of the Office of the Consumer Advocate (“OCA”) to the pleadings in the above-referenced docket captioned “Joint Utility Motion for a Prehearing Conference and Supplemental Order of Notice” (“Utility Motion”) (tab 32, filed on March 22, 2024) and “Joint Parties Motion for a Supplemental Order of Notice, Testimony, and Pre-Hearing Conference, and to Grant Additional Temporary Waivers to Eversource, Unitil, and Liberty Utilities” (“CPCNH Motion”) (tab 35, filed on March 28, 2024). The former was submitted on behalf of the three subject utilities (Public Service Company of New Hampshire, Liberty Utilities (Granite State Electric) Corp., and Unitil Energy Systems, Inc.) and the latter on behalf of the Community Power Coalition of New Hampshire (“CPCNH”) and Conservation Law Foundation.

The OCA concurs with the proposal, common to both motions, that the Commission issue a supplemental Order of Notice in this docket, schedule an additional prehearing conference, and clarify the scope of the docket as it progresses to hearing. As the dueling motions make clear, the parties to this proceeding have mastered the art of talking past each other. The OCA therefore believes it will be in the best interests of residential ratepayers for the Commission to assume a firm hand in managing this proceeding henceforth with an eye toward assuring that all New Hampshire customers, regardless of the source of their energy service, have access to innovative rate offerings (including those associated with net metering) without imposing unreasonable new costs upon them.

The Utility Motion requests that the Commission clarify that the utilities’ “bill-ready proposal” – i.e., their plan for implementing the requirement in N.H. Code Admin. Rules Puc 2205.16(d)(1) to offer what the parties refer to as bill-ready billing – is “the proper scope of this docket” and that any consideration of so-called “dual billing” be considered, if at all, in a separate proceeding.¹ Utility

¹ Rule Puc 2205.16(d)(1) covers the situation in which an RSA 53-E community power aggregation program elects to “utilize consolidated billing service for any customer.” The CPCNH and its participating municipalities have made such an election. Thus, the rule requires them to further elect either to

(1) [c]alculate the charges of credits for electricity supply and services for the customer in accordance with the [aggregator’s] customer classes or rate structures, based upon customer’s bill; or

Motion at 3. The CPCNH motion complains that during the rulemaking that led to the adoption of the Puc 2200 Rules in 2022 the utilities failed to disclose their inability to support dual billing, a deficiency the CPCNH Motion characterizes as inconsistent with prior Commission determinations and the utilities' tariffs themselves, the practical effect of which is to preclude customers not taking default energy service from participating in net metering ["NM"] and time-of-use ["TOU"] rates. See CPCNH Motion at 4 (arguing that utility "withholding of time-of-use and net-metering billing determinants and non-provision of billing services has the practical consequence of severely limiting customer choice for TOU and NM customers . . . and, *ipso facto*, foreclosing CPAs and CEPS from offering innovative rates and products to the customers that have interest and are asking for service innovations").

In these circumstances, the OCA believes it would be in the public interest for the Commission to ascertain all the relevant facts and circumstances, via sworn testimony, rather than artificially limiting the scope of this proceeding to bill-ready billing. In essence, the CPCNH is accusing the utilities of operating in violation of EDI (electronic data interchange) standards adopted by the Commission 26 years ago in Order No. 22,919.² If true, this is a serious allegation that the utilities should not be allowed to evade via the procedural gambit of seeking to limit the scope of the docket. Apart from the question of whether such alleged conduct is sanctionable, it would certainly be germane to the utilities' ongoing contention that they would be entitled to recover significant new amounts from customers – e.g., the \$8.9 million referenced at page 7 of the CPCNH Motion – if the utilities are to be expected to comply with the Puc 2200 rules in a manner that does not foreclose TOU rates and net metering for customers not taking default energy service.

The remainder of the CPCNH Motion contains a variety of detailed allegations that likewise deserve to be the subject of a full evidentiary record in this proceeding. Among them are the concerns expressed in the CPCNH Motion about load settlement and its effect on net metering customers that take default energy service. According to the CPCNH Motion, ISO New England "load settlements for suppliers serving default service customers should be lower during daytime hours but instead, are

(2) [p]rovide the customer's utility with either:

- a. [t]he custom rate applicable to the customer; or
- b. [t]he non-custom, complete schedule of electricity rates and service pricing options applicable to the customer's class and rate structure.

According to the Utility Motion, this rule is "unambiguous" and sets forth a utility "obligation to provide a specific type of billing service," Utility Motion at 2, which the CPCNH Motion describes as "a bill-ready consolidated bill option, where the CPA [i.e., community power aggregation program] and CEPS [i.e., competitive power supplier, as appropriate] use their computer system to calculate the charge and credit and supply them to the electric distribution utility to present on the bill," CPCNH Motion at 2.

In contrast, "dual billing" is the situation in which the aggregation program or competitive supplier "calculates the charges and credits and separately bills the customer for those charges." *Id.* According to the CPCNH, dual billing is actually less desirable than bill-ready billing and, in fact, the top CPCNH priority is to enable "a rate-ready consolidated bill that can present and calculate CPA and CEPS non-standard supply rates." *Id.*

² The Commission entered Order No. 22,919 on May 4, 1998 in Docket No. DR 96-150, adopting the recommendations of its EDI Working Group. The Order is available at <https://www.puc.nh.gov/Regulatory/Orders/1998ords/22919e.html>.

being over-estimated due to default suppliers not receiving full credit for NM customer excess generation, resulting in increased market purchases and higher default service revenue requirements.” CPCNH Motion at 17-18. We share the concern of CPCNH and Conservation Law Foundation that “utilities have little incentive to fix this cost shift by accounting for negative usage in load settlement, because utilities are able to socialize the cost paid to NM customers for their excess generation by recovering the expense from all electric distribution customers,” an option not available to aggregation programs or competitive suppliers. *Id.* at 18.

Accordingly, the Office of the Consumer Advocate supports the issuance of a supplemental order of notice that clarifies the scope of the instant proceeding to cover the many issues identified by CPCNH and Conservation Law Foundation at the conclusion of their motion. We are less inclined than CPCNH and Conservation Law Foundation apparently are to elicit utility cooperation via wholesale waivers of applicable Commission rules; our concern is that such blanket waivers are the equivalent of backdoor repeal of rules requirements. We agree, however, that it would be useful and appropriate to develop evidence in this docket about the extent to which the utilities can and should be expected to comply with the Puc 2200 rules, the timeline for such compliance, and the extent to which cost recovery as opposed to fines for noncompliance are warranted.

Thank you for the opportunity to provide our response to the dueling motions now pending in this proceeding.

Sincerely,

A handwritten signature in blue ink, appearing to read 'DKreis', written in a cursive style.

Donald M. Kreis
Consumer Advocate

cc: Service List, via e-mail