

ATTACHMENTS

Attachment 1: Process to Join Merrimack County Community Power

Any municipality within the county may, by majority vote of their governing body pursuant to RSA 53-E:6, request to join Merrimack County Community Power by adopting and submitting the resolution provided below to the County Commissioners for their review and approval:

Resolved, that we hereby commit the [Town/City] of _____ to join Merrimack County Community Power to provide default supply service on an opt-out basis to retail electricity customers within the [Town/City]'s boundaries, pursuant to RSA 53-E:6(I), understanding that the [Town/City] may appoint a representative and alternate to the Merrimack County Community Power Council to support joint oversight of the program, and continuing hereafter, or until such time as the [Town/City] elects to form its own Community Power Aggregation program, as provided for in and subject to the terms of the County's Electric Aggregation Plan, inclusive of the requirements and considerations for municipalities afforded therein under Attachment 2: Merrimack County Community Power Council, as amended from time to time hereafter.

Attachment 2: Merrimack County Community Power Council

After one or more municipalities have joined Merrimack County Community Power, the program shall be subject to the requirements and considerations afforded hereunder, which are intended to establish a transparent, participatory, and flexible decision-making structure for the mutual advantage of the participating municipalities and the County.

The Principal Executive Officer of Merrimack County for the purposes of implementing Merrimack County Community Power is the County Administrator.

The County and each municipality that joins Merrimack County Community Power shall:

- Have the right to designate, by resolution adopted by their respective governing bodies from time to time, a representative to the Merrimack County Community Power Council (“Council”), and an alternate to serve in their absence. Such resolutions shall be transmitted via electronic mail to the County Administrator, which shall be promptly acknowledged and effective upon receipt.
- Be entitled to one vote at meetings of the Council, which shall:
 - Act by majority vote of the representatives in attendance.
 - Have the power to establish their own Bylaws and rules of procedure and to determine the time and place of their meetings in accordance with NH RSA 91-A.
 - Convene on a quarterly or more frequent basis as necessary to perform its duties.
 - Advance any tie votes to the County Commissioners for resolution.

The duties of the Council shall include:

1. Ensuring that the County Commissioners and governing bodies of participating municipalities are regularly engaged and kept accurately informed about the program.
2. Encouraging and supporting interested municipalities to join the program.
3. Designating individuals for the County Commissioners to appoint as the Member Representative and Alternate Representative pursuant to CPCNH’s Joint Powers Agreement.
4. Nominating an individual for the County Administrator to appoint as the Authorized Officer pursuant to CPCNH’s Member Services Contract: Complete Service Bundle.
5. Nominating other individuals to serve on committees of CPCNH on behalf of the program.
6. Recommending amendments to this Electric Aggregation Plan for consideration by the County Commissioners.
7. Approving the withdrawal of municipalities from the program that have subsequently elected to implement their own Community Power Program, which shall be approved subject to compliance with Section 7 of Article VII of CPCNH’s Member Services Contract: Complete Service Bundle.
8. Assuming additional duties at the Council’s discretion to develop and enable voluntary, cost effective, and innovative solutions to local needs with careful consideration of conditions and opportunities across the County pursuant to this Electric Aggregation Plan.

The County and participating municipalities hereby agree and commit that:

- Material amendments to this Electric Aggregation Plan, and any amendment to this Attachment, shall only be adopted by the County Commissioners based on the recommendation or with the approval of the Council.
- Merrimack County Community Power shall not execute a Project Contract, pursuant to CPCNH's Joint Powers Agreement, without the approval of the Council.
- The debts, liabilities, and obligations of CPCNH and of its Member Community Power Aggregation programs will be non-recourse to (1) the County, unless expressly agreed to by the County Commissioners, and (2) each participating municipality, except to the extent expressly approved by their respective governing bodies.
- Each municipality that joins the program retains the right to implement its own Community Power Aggregation program, subject to the provisions and requirements of Section 7 of Article VII of CPCNH's Member Services Contract: Complete Service Bundle, the dual purpose of which is to (1) facilitate the departure of a municipality from the program in a manner that does not unfairly shift costs to the remaining municipalities, or to other programs operating jointly through CPCNH, and (2) provide an equitable portion of financial reserves accrued by the program to the departing municipality.

Notwithstanding anything to the contrary herein, and strictly to safeguard the mutual benefit, reliability, and strength of the program intended to be provided for hereunder, the County Commissioners shall retain the authority and responsibility to take prompt action whenever deemed necessary to ensure that the County remains in compliance with the requirements of this Electric Aggregation Plan, applicable law and regulation, and all contractual obligations entered into by the County for the program, inclusive of CPCNH's Joint Powers Agreement, Cost Sharing Agreement, and Member Services Contract: Complete Service Bundle.

Attachment 3: The Community Power Coalition of New Hampshire

Merrimack County is a member of the Community Power Coalition of New Hampshire (“CPCNH” or “the Coalition”), a nonprofit joint powers agency authorized under RSA 53-A and governed by participating communities under the terms of the Joint Powers Agreement.

The Coalition is an all-requirements Joint Powers Agency incorporated as a government instrumentality and non-profit on October 1st, 2021, to provide for the launch and operation of Community Power Aggregation (CPA) programs on behalf of our Members throughout the state. CPCNH launched power supply services in April and May of 2023.

CPCNH’s participating local governments Members share the administrative and general costs of CPCNH on a pro-rata basis, and may elect to share costs, on an individual basis, for operational services, pooled power purchases, and energy project development contracts. CPCNH also engages at the Legislature and Public Utilities Commission on behalf of its members on matters related to energy and Community Power.

CPCNH benefits its Member communities by providing for the delivery of cleaner and more locally produced electricity, innovative retail distributed energy and demand flexibility programs, policy engagement and public advocacy, competitive rates for residents, businesses, and municipal facility customers, and economic investment through the development of local programs, projects, and energy infrastructure.

CPCNH operates across all four distribution company service territories in the state: Eversource, Unitil, Liberty Utilities and the New Hampshire Electric Co-op.

CPCNH is locally controlled, governed by a Board of community representatives, and is funded through customer revenues, with no taxpayer subsidies. By law, each member’s CPA program is funded through program revenues; CPCNH’s budget is completely separate from the general funds of participating local governments.

Meetings of CPCNH’s Board and committees are subject to New Hampshire’s Right to Know Law and open to the public.

Governance Structure

CPCNH is governed in accordance with our Joint Powers Agreement, and overseen by a Board of Directors composed of the representatives appointed by participating local governments.

The Board of between 11 and 21 Directors is elected by vote of the Members at the Annual Membership Meeting in April.

CPCNH’s current Board of Directors was elected by the Members at the Annual Membership meeting held on April 21, 2023, as shown in the table below:

CPCNH Board of Directors, Elected 4/21/23		
Member	Director	Term expires
Walpole	Paul Looney	2024
Hanover	April Salas	2024
Durham	Steve Holmgren	2024
Enfield	Kim Quirk	2024
Exeter	Nicholas Devonshire	2024
Peterborough	Bruce Tucker	2024
Webster	David Hemenway	2025
Portsmouth	Kevin Charette	2025
New London	Jamie Hess	2025
Plainfield	Evan Oxenham	2025
Newmarket	Joseph Lamattina	2025
Warner	Clyde Carson	2025
Cheshire County	Terry Clark	2025
Pembroke	Matt Miller	2026
Harrisville	Andrea Hodson	2026
Randolph	Kathleen Kelly	2026
Dover	Jackson Kaspari	2026
Lebanon	Clifton Below	2026
Nashua	Doria Brown	2026
Rye	Lisa Sweet	2026

CPCNH also conducts its business through the committees, each of which is composed of Member representatives drawn from across the state:

1. **Executive Committee:** Meetings of CPCNH’s Chair, immediate past-chair, Vice Chair, Treasurer, and Secretary. Authorized to act on behalf of the Board, on most matters, in instances where decisions may not wait until the next meeting of the Board.
2. **Audit Committee:** Oversees the quality and integrity of the Corporation’s accounting, auditing and reporting practices, and causes an independent financial report of the accounts and records of the Corporation to be made by a certified public accountant each fiscal year, which is provided to Directors and to Members at the Annual Meeting.
3. **Governance Committee:** Assists the Members in recruitment of Board Directors; determines eligibility of nominees for consideration of Directorship; monitors the effective functioning of the Board and committees; conducts regular Board orientations and evaluations; periodically reviews and recommends amendments to the Joint Powers Agreement.
4. **Finance Committee:** Responsible for advising the Treasurer and the Board as to the investments, budget, and general fiscal policy of CPCNH.
5. **Member Outreach & Engagement Committee:** Responsible for supporting and facilitating Member engagement, education, and collaboration across the Membership, present and

future, and providing a forum for the Members to interact with one another and with the organization.

6. **Risk Management Committee:** Responsible for overseeing energy portfolio risk management procurement decisions, and for understanding and advising upon enterprise risk factors and mitigating strategies more broadly.
7. **Regulatory and Legislative Affairs Committee:** Responsible for monitoring and advising CPCNH and its Members regarding regulatory and legislative engagement, and for appointing representatives of the Corporation to serve on statutory commissions, study commissions, and other boards and commissions created by the state legislature.

Members and Service Territory

CPCNH is formed by more than 50 current municipal and county members, which represent more than 25% of New Hampshire's population. The following fourteen "**Wave 1**" Members launched service in 2023:

- Cheshire County; the cities of Dover, Lebanon, Nashua and Portsmouth; and the towns of Canterbury, Enfield, Exeter, Hanover, Harrisville, Peterborough, Plainfield, Rye, and Walpole.

The following nine "**Wave 2**" Members adopted Community Power Plans locally in 2023 and are positioned to launch service in spring 2024:

- The towns of Durham, Hudson, Newmarket, New London, Pembroke, Stratham, Warner, Webster, Westmoreland.

Additional recent members preparing Community Power Plans and future launch of service include:

- The city of Somersworth and the towns of Atkinson, Barrington, Bethlehem, Boscawen, Bradford, Bristol, Campton, Epping, Franconia, Gilford, Grantham, Hampton Falls, Hopkinton, Kensington, Lancaster, Loudon, Lyme, Northfield, Sugar Hill, Tamworth, Temple, and Wilmot.

At full enrollment of the current membership, CPCNH will likely serve well over 100,000 customer accounts, provide more than 1,000,000 MWh of electricity, and produce well over \$100 million in annual revenues.

Over 30 additional local governments have expressed interest in joining CPCNH, which would increase representation to ~50% of New Hampshire's population.

CPCNH subsequently expects relatively robust member recruitment, and the launch of dozens of new CPA programs in the next two to three years.

Organizational Capacity

The Coalition's Board, committees, and executive team bring a great breadth and depth of experience to the organization with professional backgrounds that support CPCNH's mission.

In 2022, CPCNH concluded a competitive solicitation for services and credit support and executed contracts for \$750,000 in startup funding, and several millions of dollars in credit support and professional services to operate the power agency and expand CPCNH's membership. CPCNH is supported by:

- **Ascend Analytics:** for energy portfolio risk management and procurement services.

- **Calpine Energy Solutions:** for Load Serving Entity services, startup funding support, and retail customer services (utility electronic data interchange (EDI), retail data management, and call center operations).
- **Community Choice Partners:** for technical consulting services.
- **Duncan Weinberg Genzer Pembroke:** for general counsel and legal services, with local New Hampshire counsel provided by Primer Piper Eggleston Kramer.
- **ecoCFO:** for accounting services.
- **Resilient Building Group:** for community engagement services
- **River City Bank:** for secure revenue “lockbox” account administration and various commercial banking services.
- **Clean Energy NH:** for community and media engagement and support.

CPCNH’s committee award reports and winning response materials are online.²

Staffing Strategy

In May 2023, CPCNH hired its first Chief Executive Officer, Mr. Brian Callnan, who was identified as a result a rigorous and nationally competitive search process.

Mr. Callnan has spent his career leading power supply and project and program development for public power agencies. Most recently, Mr. Callnan served as Vice President of Power Resources and Access at NH Electric Co-op, where he managed a portfolio of wholesale contracts to achieve lower rates for customers compared to NH’s investor-owned utilities. Mr. Callnan also led the Coop’s roll-out of “virtual power plants” harnessing distributed batteries and electric vehicles, along with “transactive energy rates” for customers to lower power costs.

Additional staff roles include:

- Bobbi-Jo Michael, Director of Administration
- Henry Herndon, Director of Member Services
- Deana Dennis, Director of Regulatory and Legislative Affairs

The Board will support the CEO in filling additional key functional roles with highly qualified staff in managerial positions to provide oversight and initiatives that guide the evolution of the agency.

CPCNH anticipates that the CEO will recommend prioritizing staff capacity in the follow areas of expertise:

- **Retail Services:** retail customer products and services, key account management and retention, and local programs.
- **Energy Portfolio Management:** contract valuation, procurement, power purchase agreements, portfolio strategy, and energy risk management analytics and reporting.
- **Information Technology:** enterprise data management and analytics.

² CPCNH Public RFP Response Material:

https://drive.google.com/drive/folders/17i_JcBRu_47t0fNKdjCpTLW6XtuPXwzu

Regulatory and Legislative Engagement

CPCNH carries out public information campaigns and routinely engages at the Legislature and Public Utilities Commission, often alongside the NH Office of the Consumer Advocate, to advance consumer interests and protect and expand the authorities of our Members. Board Chair Clifton Below, Assistant Mayor of the City of Lebanon, often leads the agency's regulatory and legislative engagement activities.

Purpose, Mission, Values & Power Enterprise Objectives

CPCNH is guided by the requirements and processes provided for under our Joint Powers Agreement, the decisions of our Members and Board of Directors, and the considerations that operating a competitive power enterprise entail.

Purpose of CPCNH

The overarching objective of CPCNH is provided for in the Joint Powers Agreement:

The purpose of CPCNH is to promote the common good and general welfare by supporting the economic vitality and prosperity of local communities by enabling municipalities and counties to support and jointly exercise authorities granted to them pursuant to NH RSA 33-B, NH RSA 53-E, NH RSA 53-F, and NH RSA 374-D, all in accordance with NH RSA 53-A; to assist member municipalities and counties in complying with the provisions of NH RSA 53-E in developing and implementing Electric Aggregation Plans and Programs known as Community Power Aggregations ("CPAs"); to provide supportive services and technical assistance to community power aggregations serving member towns, cities, counties, unincorporated places, and village districts; and to support and promote public education and civic engagement by the residents and businesses of member communities in developing and implementing energy and climate policies and actions and the role of CPAs in advancing such policies and actions for the common good.

Mission and Values

CPCNH's Board of Directors has subsequently adopted the mission and values below:

Our mission is to foster resilient New Hampshire communities by empowering them to realize their energy goals. CPCNH will create value for our Community Power member municipalities by jointly contracting for services, developing projects and programs together, educating and engaging the public, and advocating for communities and customers at the Legislature and Public Utilities Commission.

In carrying out its activities, CPCNH is guided by the following values:

- 1. Embody an inspiring vision for New Hampshire's energy future.*
- 2. Support communities to reduce energy costs and pursue economic vitality by harnessing the power of competitive markets and innovation.*
- 3. Support communities to implement successful energy and climate policies and to promote the transition to a carbon neutral energy system.*
- 4. Balance the interests of member communities who are diverse in demographics, geography and their energy goals.*
- 5. Use our shared expertise, leadership and skills to educate, empower and build the capacities of our members.*

6. *Help communities demystify the power sector to make informed decisions.*
7. *Facilitate collaboration and teamwork by championing diversity, equity and inclusion of people and communities of all kinds.*

Power Enterprise Objectives

CPCNH's immediate objectives in implementing CPA supply service in April to May 2023 were summarized in the Coalition's prior solicitation for services and credit support:

While many of the broader benefits that CPCNH intends to create will be developed over time, the agency's immediate objectives are to:

1. *Procure a reliable supply of all-requirements electricity, inclusive of Renewable Portfolio Standard requirements, and satisfy all load-serving entity obligations on behalf of participating customers.*
2. *Launch with default supply rates that "meet or beat" utility default service rates and maintain competitive default supply rates thereafter.*
3. *Accrue reserve funds sufficient to ensure Members' long-term financial stability.*
4. *Offer voluntary products that retail customers may opt-up to receive as well as Net Energy Metering supply rates that allow customer-generators to participate in the program.*
5. *Ensure individual customers have excellent customer service experience every time they interact with CPCNH regarding their electric service and all account transactions.*
6. *Guarantee that individual customer data is secure and protected against third party attacks, data breaches and inappropriate use.*

Coalition Energy Portfolio Risk Management, Rates, and Reserves Policies

The Coalition's Members expect the agency to balance customer rate levels, renewable power content, and the accrual of program reserves on behalf of Member programs to meet their local policy objectives. The Board of Directors is incorporating these considerations and trade-offs regarding the prudent allocation of revenues into Energy Portfolio Risk Management, Rates, and Reserves policies, summarized as follows:

- **Energy Portfolio Risk Management Policy:** defines the risks associated with the procurement of the power supply, identifies those responsible for administering the various elements of the risk management policy (from procurement through daily operations and oversight), and sets policy parameters for managing, monitoring, and reporting on the risks associated with procuring and hedging the power supply portfolio. The policy will define the requirements and limits within which Members delegate their procurement authority to CPCNH.
- **Rates Policy:** ensures rates are set in a timely fashion to recover capital and operating costs of Member programs and that public notice and customer communication activities remain in compliance with statutory and Member Electricity Aggregation Plan requirements.
- **Financial Reserves Policy:** sets appropriate target levels (e.g., minimum and maximum contributions) to ensure CPCNH satisfies working capital requirements, procures energy at competitive rates, adheres to contractual covenants, covers unanticipated expenditures, supports rate stability, and progresses towards obtaining an investment grade credit rating. Member contributions to reserves will be tracked, and provided back to Members, pursuant to any contractual obligations, if and when they choose to cease participating in the Coalition.

Member Cost Sharing Agreement

The Coalition's Joint Powers Agreement provides certain requirements regarding how costs will be tracked and shared across participating Community Power programs, which must be formalized in a Cost Sharing Agreement executed with each Member before the Coalition may provide services for their Community Power program, as follows:

- Costs will be tracked in three distinct categories: direct project costs, member services, and general and administrative costs (which are overhead costs that are not associated with any specific project or member service).
- Member cost-sharing agreements will be the same in all material respects: general and administrative costs will be allocated based on each Community Power program's share of total electricity usage each year, while each member will choose and separately pay for the costs of specific services and projects (under terms that reflect a fair allocation across all the members that chose the same services and projects).

The debts, liabilities and obligations of the Coalition, and of other participating Community Power programs, will be non-recourse to Member communities (unless expressly agreed to by the Member under their Cost Sharing Agreement or a Project Contract).

Attachment 4: Merrimack County Community Power Net Metering, Group Net Metering and Low-Moderate Income Solar Project Opportunities

NOTE ON STATUS OF NET METERING CUSTOMERS:

At this time if you are a Net Metered customer, you will NOT be automatically enrolled into Merrimack County Community Power until such time as electric distribution utilities are able to share net metering export data to allow for proper service and crediting of net metering exports to the grid. Merrimack County Community Power and Community Power Coalition of New Hampshire are actively working with utilities and state regulators to resolve this issue. Once the data sharing issue is resolved, Merrimack County Community Power will offer Net Metering rates and terms to compensate or credit customers for the electricity supply component of their net metered surplus generation. The remainder of this attachment describes net metering in further detail and is relevant for when the utility data sharing issues have been resolved.

Under the Net Energy Metering (NEM) process, customers who install renewable generation or qualifying combined heat and power systems up to 1,000 kilowatts in size are eligible to receive credit or compensation for any electricity generated onsite in excess of their onsite usage.

Any surplus generation produced by these systems flows back into the distribution grid and offsets the electricity that would otherwise have to be purchased from the regional wholesale market to serve other customers.

The table below compares New Hampshire’s two NEM tariff structures, which offer different credits to customers depending on the size of their installed system:

Net Energy Metering (NEM) Credit on Net Monthly Exports to Grid

	NEM 1.0 <i>“Standard NEM”</i> <i>Offered prior to 9/1/2017</i>	NEM 2.0 <i>“Alternative NEM”</i> <i>Effective 9/1/2017</i>
Large Systems <i>100 Kilowatts to 1 Megawatt</i>	Full credit (at the customer’s retail rate) for electricity supply <u>only</u>	
Small Systems <i>≤ 100 Kilowatts</i>	Full credit for electricity supply, distribution, transmission, System Benefits, Stranded Cost & Storm Recovery charges	Full credit for electricity supply and transmission; 25% credit for distribution & no credit for other charges

[RSA 362-A:9, II](#) grants Community Power programs broad statutory authority to offer customer-generators new supply rates and terms for the generation supply component of Net Energy Metering (NEM). The relevant statutory authority is quoted in full below:

“Competitive electricity suppliers registered under RSA 374-F:7 and municipal or county aggregators under RSA 53-E determine the terms, conditions, and prices under which they

agree to provide generation supply to and credit, as an offset to supply, or purchase the generation output exported to the distribution grid from eligible customer-generators. The commission may require appropriate disclosure of such terms, conditions, and prices or credits. Such output shall be accounted for as a reduction to the customer-generators' electricity supplier's wholesale load obligation for energy supply as a load service entity, net of any applicable line loss adjustments, as approved by the commission. Nothing in this paragraph shall be construed as limiting or otherwise interfering with the provisions or authority for municipal or county aggregators under RSA 53-E, including, but not limited to, the terms and conditions for net metering."

Merrimack County Community Power intends to offer a NEM generation rate and terms to customers with onsite renewable generation eligible for net metering from Eversource, NH Electric Co-op, and Unitil. Note that any non-supply related components of the Net Energy Metering tariff (e.g., credits for transmission and distribution) will continue to be provided to customer-generators directly by their utility.

How Merrimack County Community Power calculates, accounts for and provides NEM credits to participating customer-generators for the different types of eligible system sizes, customer types and group configurations will have a number of important financial and practical implications for the program and customers in the County.

Merrimack County Community Power will work closely with electric distribution utilities on the process of transferring NEM customers with regard to metering, billing and data management requirements of this subset of customers. Merrimack County Community Power will maintain close coordination with Eversource, NH Electric Co-op, and Unitil to expeditiously resolve any NEM issues that may occur.

For example, Merrimack County Community Power may decide bills should be separately issued to customers that have installed systems after September 2017.

The advantage in dual-billing this subset of customers stems from what is essentially an accounting irregularity in how electric distribution utilities billing systems and PUC policies currently treat customer-generators taking service under the NEM 1.0 tariff, which applies to systems installed before September 2017, versus the NEM 2.0 tariff, which applies to all systems installed after that date. As context:

- The cumulative surplus generation exports of net metered customer-generators will decrease the amount of electricity that Merrimack County Community Power will have to purchase from the regional power market to supply other customers in the program. The surplus generation from both NEM 1.0 and NEM 2.0 customer-generators will be tracked and netted out from the program's wholesale load obligations by Eversource, NH Electric Co-op, and Unitil for this purpose.
- However, for the purpose of netting out of the program's Renewable Portfolio Standard (RPS) compliance requirements, the surplus generation from NEM 1.0 customers is tracked and accounted for differently than it is for NEM 2.0 customers:
 - Surplus generation from NEM 1.0 customers is tracked as a kWh credit that is carried forward to offset the customer's future electricity supply requirements; these kWh credits will be counted as an offset that decreases the total electricity supplied by the program to retail customers in aggregate — which lowers the program's RPS compliance obligation.

- Surplus generation from NEM 2.0 customers is tracked as a monetary credit that is carried forward to offset the customer’s future electricity bills; even though the monetary credit is calculated each month based on every customer’s kWh surplus generation, the monetary credit is treated as a re-sale or delivery of power generated by NEM 2.0 customer and provided to other participating customers through the program — it is not treated, in other words, as an offset that decreases the total electricity supplied by the program to retail customers in aggregate — and therefore does not lower RPS compliance obligations in the same way.

The practical consequence of this accounting treatment is that Merrimack County Community Power would have to purchase Renewable Energy Certificates for the amount of surplus generation supplied by NEM 2.0 customer-generators (but not NEM 1.0 customer-generators) in the same way as if the program had imported that amount of electricity from the regional wholesale market.

- Taking on the responsibility of billing this subset of NEM 2.0 customers directly may allow Merrimack County Community Power to track and account for the impact of their surplus generation in ways that lower the program’s RPS compliance obligations and costs. Specifically, the program could credit customers currently on the utility’s NEM 2.0 tariff in the same way that NEM 1.0 customers are credited (i.e., using kWh credits to track surplus generation on the supply portion of the bill). Note that RSA 362-A:9,II explicitly grants Community Power programs the flexibility to offer net metered customers either:
 - A “*credit, as an offset to supply*” for their surplus generation, which is equivalent to the NEM 1.0 tariff accounting practices; or
 - To “*purchase the generation output exported*” which is equivalent to how the NEM 2.0 tariff tracks surplus generation.

Exercising the first option listed above, by offering NEM 2.0 customers a kWh credit tracked as an offset to supply, would allow Merrimack County Community Power to harmonize the accounting treatment of NEM 1.0 and 2.0 surplus generation for the purpose of program RPS compliance reporting. This would help lower program rates and is an option that the program may therefore find cost-effective to implement.

Additionally, certain customer-generators currently receiving IRS Form 1099 taxable income from monetary credits under electric distribution utilities NEM 2.0 tariff may benefit financially from receiving kWh credits for the supply portion of their monthly surplus generation instead.

While dual billing is typically avoided — as it is less convenient for most customers to receive a separate bill from their utility and supplier — customers with onsite generation systems tend to be highly informed on energy issues and respond positively to more active engagement with both their utility and supplier.

Consequently, dual billing may enhance customer satisfaction, awareness and ongoing participation in the program for customer-generators. Furthermore, dual billing could be done electronically, which is more convenient for the customer and will be less costly for the program than sending paper bills.

Furthermore, Merrimack County Community Power may be able to create additional value for customer-generators through a combination of dual billing, assistance with metering upgrades and time-varying rate structures. For example:

- Many customer-generators with solar systems may benefit from local programs that help them reduce their full energy bill costs;
- Providing the customer with a separate supply-only bill would allow Merrimack County Community Power to also offer a time-varying rate (which may not otherwise be available through electric distribution utilities billing systems);
- Upgrading to an interval meter (if the customer does not have one) and installing onsite battery storage, combined with a time-varying rate, may enable the customer-generator to further lower their overall bill by shifting their pattern of electricity usage at times of high-power prices and constrained generation and transmission capacity. This could also help to manage and lower the program's electricity supply costs in aggregate as well, and thus benefits all participating customers.

Similarly, Merrimack County Community Power may be able to streamline the process and cost of installing REC production meters for customer-generators that don't already have one. By registering customer-generators and purchasing their RECs for their onsite power generation Merrimack County Community Power could use them to satisfy part of the program's overall RPS compliance requirements. This would allow the program to source RECs locally and would provide an additional source of revenue for customer-generators in the County.

Merrimack County Community Power also intends to evaluate ways to enhance the value of the NEM credits that customers receive overall, from both the program and electric distribution utilities. For example, customer-generators may benefit by becoming hosts in Group Net Metering, including by establishing a Low-Moderate Income Solar Project group. The program may be able to streamline the process required to do so, which entails:

- Matching customers interested in becoming members with prospective group hosts;
- Executing a Group Net Metering Agreement together;
- Registering the group with the Public Utilities Commission and electric distribution utilities; and
- Thereafter filing annual compliance reports.

Lastly, NEM tariffs are subject to revision and Merrimack County Community Power, through the Coalition, intends to work with electric distribution utilities, participate in Public Utilities Commission proceedings and engage at the Legislature on issues that impact how the tariffs evolve going forward.

Customers are increasingly adopting new energy technologies and expect to be offered rates and services that provide them with new choices and fair compensation based on their investment; the program's ability to assist customers in these ways is heavily dependent on how state policies and utility regulations evolve over time.

Merrimack County Community Power will seek to represent the interests of our community and customers in these matters.

Attachment 5: How Load Serving Entity Services will be Implemented

Merrimack County Community Power will implement Load Serving Entity (LSE) services, for the purpose of procuring or selling electricity on behalf of customers participating in the aggregation.

The Role & Responsibility of Load Serving Entities

A Load Serving Entity (LSE) is an entity that has registered with ISO New England (ISO-NE, the non-profit regional wholesale electricity market operator) as a market participant and assumes responsibility for securing and selling electric energy and related services to serve the demand of retail customers at the distribution level (i.e., homes and businesses).

As context, every retail customer in New Hampshire (and across New England) is assigned to a specific Load Serving Entity at all times:

- Customers on utility default service are periodically re-assigned to whichever Competitive Supplier has won the utility's most recent auction or the utility as LSE.
- Similarly, customers are assigned to a different Load Serving Entity whenever they are transferred to Community Power Aggregator (CPA) service on an opt-out default basis, choose to opt-in to take service from the CPA, or switch to a Competitive Supplier of their choosing.

Consequently, all Competitive Suppliers and CPAs in New Hampshire are required to either:

1. Register as a Load Serving Entity with ISO-NE; or
2. Contract with a third-party that has agreed to be the Load Serving Entity responsible for the Competitive Supplier's or CPA's customers.

To ensure that customers receive firm power supply, there are a variety of services that need to be performed and electrical products that must be procured or otherwise provided. The required products and services are referred to as "all requirements energy" (or alternatively, "full requirements service").

The role of Load Serving Entities is to provide, arrange for, or otherwise pay for the cost of providing all requirements energy to customers. The majority of these requirements are defined by the ISO-NE wholesale market operator, which is subject to Federal oversight, but certain requirements are defined by the state in which the LSE registers to serve customers (Renewable Portfolio Standard requirements, for example).

In New Hampshire, full-requirements energy is defined as the provision or cost of (1) electrical energy, capacity, and reserves (including transmission and distribution losses); (2) ancillary services, congestion management, and transmission services (to the extent not already provided by the customer's utility); (3) the costs associated with complying with New Hampshire's Renewable Portfolio Standard (i.e., the cost of purchasing Renewable Energy Credits or, if an insufficient number of credits is procured, the cost of Alternative Compliance Payments); and (4) other services or products necessary to provide firm power supply to customers (i.e., because the definition and requirements of the above products and services are subject to change over time).

Each of the above products and services is procured, provided, and accounted for in different ways, through market mechanisms and regulated processes that have been designed to accommodate the unique characteristics of the product or service in question.

Given the complex and capital-intensive nature of providing all requirements electricity to customers, Load Serving Entities are subject to significant state and Federal oversight, in terms of registration, reporting, and financial security requirements.

The web pages below provide current information regarding Load Serving Entity registration, financial security, and renewal requirements to operate in ISO-NE and New Hampshire:

- ISO-NE: [New Participant Registration Instructions](#)
- NH PUC: [Forms for Competitive Electric Power Suppliers and Electric Load Aggregators](#)
- Eversource: [Electric Information for Suppliers & Aggregators](#)
- Unitil: [Energy Supplier Resources](#)
- Liberty Utilities: [Become a Liberty Utilities Approved Supplier](#)
- New Hampshire Electric Cooperative: [Supplier Information](#)

Options for Enlisting Load-Serving Entity (LSE) Services

If Merrimack County chooses to contract with CPCNH as an all-requirements joint powers agency, CPCNH will be responsible for providing — either through a contracted service provider, or through itself as a registered LSE with ISO New England — LSE services inclusive of providing all requirements energy supply and all other energy services required to implement and operate Merrimack County Community Power.

In the event that the County does not contract with CPCNH to provide LSE and other services to Merrimack County Community Power, then the County may contract to implement LSE services independently, either with a third-party LSE acting as the County's agent or with a Competitive Electric Power Supplier (CEPS) that contracts to provide LSE services for customers taking service from Merrimack County Community Power.

The County, with the support of the Merrimack County Community Power Committee, will ensure that contracts entered into provide for the implementation of LSE services and full requirement energy supply for customers participating in Merrimack County Community Power.

Attachment 6: Customer Data Protection Plan

Merrimack County Community Power will protect and maintain the confidentiality of Individual Customer Data in compliance with its obligations as a Service Provider under RSA Chapter 363 ([RSA 363:38](#) and [RSA 363.37](#) (“*privacy policies for individual customer data; duties and responsibilities of service providers and definitions*”) and other applicable statutes and Public Utilities Commission rules.

Individual Customer Data (ICD) includes information that is collected over the course of providing energy services to customers participating in Merrimack County Community Power and that, singly or in combination, can be used to identify specific customers, including: individual customer names, service addresses, billing addresses, telephone numbers, account numbers, electricity consumption data, and payment, financial, banking, and credit information.

As described herein, the County of Merrimack is responsible for ensuring that reasonable security procedures and practices are implemented and maintained to protect the confidentiality of Individual Customer Data from unauthorized access, destruction, modification, disclosure, or use.

This plan assumes, but does not require, that the County will participate fully in the Community Power Coalition of New Hampshire (CPCNH) for the purposes of implementing and operating Merrimack County Community Power.

Responsibilities of the Community Power Coalition of New Hampshire (CPCNH)

CPCNH is a Joint Powers Agency authorized under RSA 53-A (“*Agreements Between Governments: Joint Exercise of Powers*”) and RSA 53-E:3 (“*Municipality and County Authorities*”). CPCNH’s [Joint Powers Agreement](#) expressly authorizes the agency to:³

- “[C]omply with orders, tariffs, and agreements for the establishment and implementation of community power aggregations and other energy related programs”;
- “Make and enter into contracts” and “[m]ake and enter into service agreements relating to the provision of services necessary to plan, implement, operate, and administer CPCNH’s affairs”; and
- “[D]o all acts permitted... as well as any act necessary, consistent with New Hampshire law to fulfill the purposes” set forth under the agreement, which include assisting “member municipalities and counties in complying with the provisions of NH RSA 53-E in developing and implementing ... Community Power Aggregations”.

CPCNH has solicited for and contracted with third-parties to provide comprehensive services and credit support to launch Member CPA programs. CPCNH has adopted Energy Portfolio Risk Management, Retail Rates, Financial Reserves, and Data Security and Privacy policies to govern CPA operations.

³ From Section 2.3, Powers, of the By-Laws of CPCNH, found at pages 21-22 of the JPA, available here: https://www.cpcnh.org/files/ugd/202f2e_601bfada901c4a89a1c2812a0638090a.pdf, and more specifically §2.3.11, §2.3.6, §2.3.9, and §2.3 introductory paragraph. Similar language is also in the Articles of Agreement.

CPCNH’s adopted Data Security and Privacy Policy is linked to below.⁴ The policy defines the specific goals, requirements, and controls necessary to safeguard the confidentiality, integrity, and availability of confidential information.

CPCNH’s Board has also adopted a Cost Sharing Agreement and Member Services Contract, which Members will execute prior to taking CPA service from CPCNH.

CPCNH Request for Proposals for Comprehensive Services and Credit Support

In 2022 CPCNH’s Risk Management Committee oversaw a competitive solicitation process and evaluated, ranked, and selected Calpine Energy Solutions, LLC as a vendor with a proven track record of successful qualification for EDI transactions and protection of confidential customer information, including what is characterized as ICD under RSA 363, and other relevant factors. CPCNH has contracted with Calpine Energy Solutions, LLC to provide Retail Customer Services, inclusive of services required to ensure the confidentiality of ICD and has executed a Master Professional Services Agreement with Calpine Energy Solutions, LLC. Services are inclusive of Member CPA start-up and customer enrollment support services, utility and Electronic Data Interchange (EDI) services, customer information system, customer call center and engagement support services, billing administration, and other services.

For additional information regarding the use of customer data, and expected operational needs of CPCNH, refer to (1) the RFP at pp. 20-235 and to (2) the RFP Addendum #2 (issued May 24, 2022), at pp. 11 in response to Questions 15.6 The latter is excerpted below, and provides a concise summary of CPCNH’s requirements to ensure the confidentiality of ICD:

Regarding Customer Privacy Compliance:

[RSA 53-E:4](#), VI, requires CPAs to maintain the confidentiality of individual customer information in compliance with their obligations as service providers under [RSA 363:37](#) (Definitions) and [RSA 363:38](#) (“Privacy Policies for Individual Customer Data; Duties and Responsibilities of Service Providers”). [RSA 53-E:7](#), X also requires the Public Utilities Commission to adopt Administrative Rules for CPAs governing “access to customer data” and other matters.

Calpine Energy Solutions, LLC has demonstrate physical and cybersecurity readiness sufficient to ensure customer data is held in strict confidence — e.g., through audits in accordance with the American Institute of Certified Public Accountants Statements on Standards for Attestation Engagements No. 16 (SSAE 16) Service Organizational Controls (SOC) Reports, periodic network vulnerability assessments, etc. — and is contractually required to maintain the confidentiality of individual customer data pursuant to [RSA 363:38, V\(b\)](#) and applicable Public Utilities Commission rules.

Refer to the PUC’s [Adopted CPA Administrative rules \(Chapter Puc 2200\)](#), specifically the definitions in Puc 2202.07 (“Confidential customer information”) and Puc 2202.02 (“Anonymized”), and Puc 2205.02 (“Application of Puc 2000 to CEPS When Providing Electricity Supply to CPA Customers”).

As CPCNH’s retail customer services provider, Calpine Energy Solutions, LLC will comply with relevant portions of the PUC’s current Administrative Rules for Competitive Electric Power

⁴ CPCNH adopted Data Security and Privacy Policy:

https://drive.google.com/file/d/1oU9KvV20zAU85AYKQohifyGudG9bNX_V/view?usp=sharing

⁵ https://www.cpcnh.org/files/ugd/202f2e_e781638c123d4cf3977358f845081313.pdf

⁶ Pages 11-12 at https://www.cpcnh.org/files/ugd/202f2e_8ceed8824453482c902a8a0fa1ab826c.pdf.

Suppliers and Aggregators (Chapter Puc 2000). Refer to [Chapter Puc 2000](#), Puc 2002.09 (definition of “Confidential Customer Information”) and Puc 2004.19 (“Protection of Confidential Customer Information”), which is proposed to apply to CEPS providing electricity supply service to CPA customers pursuant to Puc 2205.02 under the PUC's CPA Administrative Rules.

CPCNH Requirements to Access and Use of Individual Customer Data

In CPCNH’s capacity as a service provider to the County, the agency and third parties contracted through CPCNH to provide services to Merrimack County Community Power will need to access and use ICD for operational needs and for the research, development, and implementation of new rate structures and tariffs, demand response, customer assistance, energy management, or energy efficiency programs on behalf of Merrimack County Community Power.

Third parties under contract to CPCNH that may require access to ICD on behalf of Merrimack County Community Power may include CEPS (Competitive Electric Power Suppliers) functioning as Load Serving Entities (LSEs) for the supply of all requirements energy, or other third-party vendors providing Load Serving Entity (LSE) services on behalf of CPCNH, as well as portfolio management, Electronic Data Interchange (EDI), Customer Information System (CIS), billing, accounting, and related services, and other contractors and academic institutions under contract to support the research and development of potential new energy services to offer to customers participating in Merrimack County Community Power.

Specific types of ICD that Merrimack County Community Power, CPCNH, and third parties under contract are expected to receive and possess include:

- Name, address, account number, and other information about electric customers within the County for purposes of sending required notification of Merrimack County Community Power Commencement of Service and enrollment of customer in Merrimack County Community Power, consistent with Puc 2204.04, .05, and .06, as adopted by the PUC and the requirements of [RSA 53-E:7](#), III, V, and VI.
- Individual customer information used for operation of Merrimack County Community Power, such as that in Puc 2205.13, most of which may be accessed through the EDU EDI.
- Other confidential customer information that may be received or collected directly by Merrimack County Community Power or CPCNH, or through sources other than the EDU due to customer participation in particular related programs or services, billing operations, other customer services, or that may be volunteered by customers, will likewise only be used for statutorily authorized purposes as ICD.

Ongoing collection and use of individual customer data of the types described in Puc 2205.13 will be used for both:

1. **General operational needs** for retail power supply and related energy services operational needs, such as load and supply forecasting, portfolio management, billing and audit processes, and for research and development of potential new energy services to offer to customer participants; and
2. **Programmatic and customer-specific services and offerings**, such as responding to customer account queries, opt-in rates or demand side management for customers with flexible demand, distributed generation or storage, and interval meters; and other energy services that may be offered including programs for LMI participants that are qualified in the Electric Assistance Program (EAP).

In compliance with [RSA 363:38](#) and [RSA 363.37](#), CPCNH and third parties contracted through CPCNH that require access to ICD to provide services to Merrimack County Community Power will be contractually required to:

- Implement and maintain reasonable security procedures and practices appropriate to the nature of the ICD.
- Protect ICD from unauthorized access, use, destruction, modification, or disclosure.
- Use ICD solely for primary purposes, such as: complying with the provisions of RSA 53-E:7, II; providing or billing for electrical service; meeting system, grid, or operational needs; researching, developing, and implementing new rate structures and tariffs, demand response, customer assistance, energy management, or energy efficiency programs; and for research and development of potential new energy services to offer to customer participants.
- Collect, store, use, and disclose only as much ICD as is necessary to accomplish the aforementioned primary purposes.
- Not use ICD for a secondary commercial purpose unrelated to the aforementioned primary purposes of the contract without the express consent of the customer.
- Return or permanently delete all ICD after contract termination and deliver a certificate, signed by an authorized representative, stating that all ICD has been returned or permanently deleted and that all materials based on ICD have been destroyed, as appropriate (i.e., except for copies necessary for tax, billing, or other financial purposes).

Additionally, if CPCNH contracts with one or more Competitive Suppliers to provide Load Serving Entity services to participating customers, or brokers to support operations in a capacity that would require access to ICD, then the Competitive Suppliers and/or brokers would additionally be required to comply with the requirements of Puc 2004.19 (*Protection of Confidential Customer Information*), which are excerpted below in the section “Statutory and Rule Requirements” for reference.

Responsibilities of Merrimack County

If the County chooses to participate fully in the Community Power Coalition of New Hampshire (CPCNH) for the purposes of implementing and operating Merrimack County Community Power, the responsibilities would be as follows.

The County Administrator, with support from the Merrimack County Community Power Committee, shall review that CPCNH has adequate policies, procedures and measures in place to protect confidential information and that contractual requirements consistent with the County’s obligations to protect ICD as required under [RSA 363.37](#), [RSA 363:38](#) and [RSA 53-E:4](#), VI, and consistent with PUC rules, including Puc 2004.19 and its non-disclosure restrictions, are incorporated into any contracts with CPCNH, or any other third parties that are authorized to access ICD on behalf of the County before executing any such contracts.

The County expects contracts and policies to provide for:

- Third-party security assessment requirements regarding: Information Security Management; Personnel Security; Systems Development and Maintenance; Application Security; System Security; Network Security; Data Security and Integrity; Access Control; and Vulnerability Management.

- Third-party security requirements including: (1) User Account and Access Controls to ensure that only authorized individuals have access to ICD for legitimate primary purposes under RSA 368:38, which may include the need for non-disclosure agreements; (2) Handling of Sensitive Data Protocols to protect confidential customer information from unauthorized access, use, destruction, modification, or disclosure; (3) Breach Reporting, including obligations to report a security breach as defined in [RSA 359-C:19](#), V and required by [RSA 359-C:20](#) and any other applicable laws, rules, or utility requirements for data breach reporting; (4) Plan for deletion and destruction of ICD when it is no longer necessary to accomplish primary purposes pursuant to RSA 368:38; and (5) Prohibitions on use of ICD for a secondary commercial purpose not related to the primary purpose of vendor’s contract without the express consent of the customer.
- Third-party documentation and reporting requirements regarding, as applicable: Audit Reports (e.g. SSAE 16/SOC Report); Documentation describing Control practices used to review sub-vendors; Maintenance of an Information Security Program; Training Program for Employees on Cyber Awareness; Background checks performed for all employees with access to ICD; Immediate Data Breach reporting to appropriate parties; and any material changes in Data Security practices since prior review and approval.

Lastly, in the event that the County does not contract with CPCNH to provide energy services to Merrimack County Community Power, then the County will develop and adopt policies and contracts that ensure compliance with the County’s obligations as a Service Provider to protect and maintain the confidentiality of ICD under [RSA 363:38](#), [RSA 363.37](#) and other applicable statutes and Public Utilities Commission rules prior to directly collecting, storing, using, or disclosing any ICD or contracting with other Competitive Suppliers, brokers and/or other third-party vendors that require access to ICD.

Additional References: Statutory and Regulatory Requirements

The sections below are provided for additional reference, and summarize the different requirements that apply to (1) Community Power Aggregators and Service Providers, (2) brokers and Competitive Electric Power Suppliers (CEPS) that provide Load Serving Entity services under contract to Community Power Aggregators, and (3) access to ICT through the Multi-Use Energy Data Platform authorized under RSA 378:50-54 (if and when it becomes operational).

Statutory Requirements for Community Power Aggregators & Service Providers

Statutory requirements regarding the use of Individual Customer Data for Community Power Aggregators are summarized below:

- [RSA 363:37](#), I defines Individual Customer Data (ICD) as *“information that is collected as part of providing electric, natural gas, water, or related services to a customer that can identify, singly or in combination, that specific customer, including the name, address, account number, quantity, characteristics, or time of consumption by the customer.”*
- [RSA 363:38](#), IV requires Service Providers to *“use reasonable security procedures and practices to protect individual customer data [ICD] from unauthorized access, use, destruction, modification, or disclosure.”*
- [RSA 53-E:4](#), VI provides that Community Power Aggregations (CPAs) *“shall be subject to RSA 363:38 as service providers and individual customer data shall be treated as confidential private information and shall not be subject to public disclosure under RSA 91-A”.*

- The definition of Service Provider under [RSA 363:37](#), II includes *“an aggregator, as defined by RSA 53-E:2, II...and any other service provider that receives individual customer data [ICD]...”*
- [RSA 53-E:2](#), II defines an *“aggregator”* in this context as *“any municipality or county that engages in aggregation of electric customers within its boundaries”*.
- RSA 53-E:2, VI further defines *“municipality”* in this context as *“any city, town, unincorporated place, or village district within the state.”*
- [RSA 363:38](#), II requires Service Providers to: *“(a) Collect, store, use, and disclose only as much individual customer data [ICD] as is necessary to accomplish primary purposes, and (b) Use individual customer data solely for primary purposes.”*
- [RSA 363:37](#), III defines “[p]rimary purpose” as *“the main reason for the collection, storage, use, or disclosure of individual customer data [ICD] which is limited to: (a) Providing or billing for electrical or gas service. (b) Meeting system, grid, or operational needs. (c) Researching, developing, and implementing new rate structures and tariffs, demand response, customer assistance, energy management, or energy efficiency programs.”*
- [RSA 53-E:4](#), VI further authorizes approved Community Power Aggregations to *“use individual customer data to comply with the provisions of RSA 53-E:7, II and for research and development of potential new energy services to offer to customer participants.”*
- [RSA 363:38](#), V(b) further makes clear that a Service Provider may disclose ICD *“to a third party for system, grid, or operational needs, or the research, development, and implementation of new rate structures and tariffs, demand response, customer assistance, energy management, or energy efficiency programs”* — provided that the Service Provider *“has required by contract that the third party implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, use, destruction, modification, or disclosure, and to prohibit the use of the data for a secondary commercial purpose not related to the primary purpose of the contract without the express consent of the customer.”*
- [RSA 363:38](#), V(c) provides that *“[n]othing in this section shall preclude a service provider from disclosing electric, natural gas, or water consumption data required under state or federal law, or which is identified as information subject to warrant or subpoena or by an order of the commission.”*
- [RSA 363:38](#), V(a) makes clear that ICD may be aggregated and used for *“analysis, reporting, or program management after information that identifies an individual customer has been removed.”*

Additional Requirements Specific to Brokers & Competitive Suppliers

Pursuant to Puc 2205.02 under the PUC's CPA Administrative Rules, brokers and Competitive Suppliers that are hired by municipalities to manage and operate Community Power Aggregations and provide Load Serving Entity services to participating customers must comply with the requirements of Puc 2004.19 (*Protection of Confidential Customer Information*), which is excerpted below for reference along with Puc 2002.09 (*Confidential Customer Information*).

Note that the use of the term “aggregator” throughout Puc 2004.19 below refers to brokers and does not refer to or otherwise apply to Community Power Aggregators.

As context, these requirements are part of the Commission’s [Chapter Puc 2000 rules](#) (“*Competitive Electric Power Supplier and Aggregator Rules*”), which apply to Competitive Suppliers and brokers—referred to as “CEPS” and “aggregators” below, respectively—and are expressly not applicable to “*municipalities or counties providing electricity or aggregating within the boundaries of participating municipalities under RSA 53-E*” (Community Power Aggregators) per Puc 2001.02 (*application of rules*).

Puc 2002.09 “Confidential customer information” means information that is collected as part of providing electric services to a customer that can identify, singly or in combination, that specific customer, and includes the customer name, address, and account number and the quantity, characteristics, or time of consumption by the customer, and also includes specific customer payment, financial, banking, and credit information.

...

Puc 2004.19 Protection of Confidential Customer Information.

(a) No CEPS or aggregator shall, except as permitted under (c) below or as otherwise required by law, release confidential customer information without express written authorization from the customer.

(b) A CEPS or aggregator shall implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect confidential customer information from unauthorized access, use, destruction, modification, or disclosure, and to prohibit the use of the confidential customer information for a secondary commercial purpose not related to the primary purpose of the service provided to the customer, without the express written consent of the customer.

(c) A CEPS or aggregator may disclose to a third party subject to non-disclosure restrictions confidential customer information as necessary for any one or more of the following purposes:

- (1) Billing for electric service;
- (2) Meeting electric system, electric grid, or other operational needs;
- (3) Implementing any one or more of the following programs:
 - a. Demand response;
 - b. Customer assistance;
 - c. Energy management; and
 - d. Energy efficiency.

(d) For purposes of this section, the term “non-disclosure restrictions” means that the CEPS or aggregator has required by contract that the third party implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the confidential customer information from unauthorized access, use, destruction, modification, or disclosure, and to prohibit the use of the confidential customer information

for a secondary commercial purpose not related to the primary purpose of the contract without the express consent of the customer.

(e) A customer granting authorization to release confidential customer information for purposes described in the terms and conditions of service shall satisfy the requirement in (a) above.

(f) A CEPS or aggregator granted agency authority shall be deemed authorized to obtain customer usage information when it has received customer authorization as described in Puc 2004.08 or Puc 2004.09.

(g) In the event of a dispute about the release of confidential customer information, including whether the information is or should be confidential, a CEPS, aggregator, or customer may file a complaint with the commission for resolution.