THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISISON

DE 22-060

ELECTRIC DISTRIBUTION UTILITIES

Consideration of Changes to the Current Net Metering Tariff Structure,
Including Compensation of Customer-Generators

Community Power Coalition of New Hampshire Post-Hearing Reply Brief

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I. Introduction

In this docket, the Commission is not presented with many positions of great substantive variation. The parties' positions align substantially in how net metering (NM)[1] should be modified, including collecting data, allowing an application fee, implementing time-of-use (TOU) rates, extending NM for generation up to just under five megawatts (MW), relying on the New Hampshire Value of Distributed Energy Resources, including the original 2022 report, 2023 addendum, and updated materials ("VDER Study"),[2] and more.

Instead, with a couple substantive exceptions, the primary points of variation are temporal in nature. One primary point of temporal variation is with respect to how long a legacy period should last. All parties, except the Department of Energy (DOE or Department), assert the criticality of maintaining the legacy period for rolling periods lasting twenty years from the time a project comes online. The other primary point of variation is when to "develop" the alternative tariffs for NM.[3] With respect to the question of when, all parties' positions, except the Coalition's, ignore the Commission's mandatory statutory duty to continue to develop the new NM tariffs in this docket and not "wait" by merely continuing the status quo.

II. The Law Requires Development of the Net Metering Tariff in This Docket

This docket is *the* docket by which the Commission is, through an adjudicative proceeding, continuing to develop and periodically review new alternative NM tariffs pursuant to RSA 362-A:9, XVI(a).[4] The Coalition discusses the nature of this legal duty in its Post-Hearing Brief and incorporates that discussion by reference.[5] In recognition of the nature of this mandatory duty, the Coalition set forth

[1] Both the terms "net metering" and "net-metered" are referred to as NM.
[2] Hearing Exhibits 8, 9, and 12.
[3] *See* RSA 362-A:9, XVI(a) (the "commission, through an adjudicative proceeding, *shall continue to develop* and periodically review new alternative net metering tariffs") (emphasis added).
[4] *See* DE 22-060 Commencement of Adjudicative Proceeding and Notice of Prehearing Conference, September 20, 2022.
[5] *See* Community Power Coalition of New Hampshire Post-Hearing Brief ("Coalition Brief") at 2–5.

several reasonable developments in NM, all credibly supported by evidence in the record, to account for market and technological trends while ensuring the compensation structure is just and reasonable and aligned with the public interest.[6]

Further, the Coalition set forth a staggered schedule to move this docket forward to begin to phase in these developments.[7] Phasing in developments of the NM tariff within this docket, as opposed to in a later docket, is the sole permissible reading of the law using well-settled statutory interpretation[8] when giving effect to the words the "commission, *through an adjudicative proceeding,* shall continue to develop and periodically review new alternative net metering tariffs."[9] The law does not direct the Commission to develop NM tariffs "through a *series* of adjudicative *proceedings*." The DOE brief's recommendation to implement TOU rates now comports with developing the NM tariff in this docket, and the Coalition agrees with the Department as it pertains to this recommendation.[10]

The Commission cannot rule to disregard the statutory mandate by not continuing to develop the NM tariff and merely continuing to maintain the status quo in this docket as the Settling Parties request. Indeed, the Settling Parties' Initial Brief uses some variation of the root word "continue" twelve times, but always meaning to continue the status quo, and never meaning to "continue to develop," only the latter being the actual legal requirement.[11] Except as noted with respect to currently available TOU rates, the Commission should also not follow DOE's recommendation to ignore the Commission's statutory mandate by continuing the status quo.[12]

With respect to developments of the NM tariff, the Settling Parties Initial Brief calls for further

[6] *Id.* at 5–20.
[7] *Id.*
[8] *Id.* at notes 1–3.
[9] RSA 362-A:9, XVI(a) (emphasis added).
[10] *See* New Hampshire Department of Energy Initial Post-Hearing Brief at 12 ("To the extent that the utilities currently have any TOU rates applicable and appropriate for net metered customers, the Department recommends that net metered customers have the option to be placed on such rates").
[11] *Compare* Settling Parties Initial Brief ("Settling Parties' Brief") *with* RSA 362-A:9, XVI(a).
[12] *Compare* New Hampshire Department of Energy Initial Post-Hearing Brief *with* RSA 362-A:9, XVI(a).

delays by proposing a new docket be commenced two years from the time of a final order in this docket, at the soonest. The history of the development of NM has already shown that timelines have been difficult to meet, and this schedule would likely leave New Hampshire businesses and residents without NM tariff development for at least four years.[13] The proposed docket the Settling Parties call for is likely to take a year (or more) to adjudicate, and then a number of months after that until a written order is published. As noted above, the request to further delay action does not comport with the legal requirements for development of the NM tariff to occur in this adjudication.[14]

III. Exports to the Grid Included in this Docket, Notice Waiver

In its opening brief, the Coalition briefed both how the question of accounting for exports to the grid arose in this docket and how the Commission should answer this question.[15] In their opening brief, the Settling Parties asserted the issue is outside of the scope of this docket.[16] The Settling Parties' position ignores applicable law, especially as it relates to their own conduct in this docket.

First, as noted in the Coalition's brief, this topic has expressly been part of this docket since as early as the January 5, 2023 pre-hearing conference and has continued to expressly be part of this docket up through and including at the adjudicative hearing.[17] Importantly, no party ever objected, pursuant to Puc 203.09(e), to the topic being included in discovery and no party has ever filed any motion or other pleading seeking to strike the topic or clarify the topic's exclusion from the docket, pursuant to Puc 203.03, 05 and 07. Having gone through the entire adjudication through to briefing, parties have waived

[13] *See generally* DE 16-576. (Numerous deadlines were extended from those originally set. Perhaps most notably, the VDER Study was originally planned to be completed in 2020 (Staff Value of Distributed Energy Resources Study Scope and Timeline Report, May 9, 2018), which date the Commission extended to the second quarter of 2021 (Order No. 26,316 Approving Value of Distributed Energy Resources Study Scope, December 18, 2019), and then the VDER Study was finally completed and filed in this docket which is undergoing briefing in October of 2024 (Hearing Exhibits 8, 9, 12).
[14] *See* RSA 362-A:9, XVI(a) (the "commission, through *an adjudicative proceeding*, shall continue to develop and periodically review new alternative net metering tariffs") (emphasis added); *See* Coalition Brief at notes 1–3.
[15] *See* Coalition Brief at 5; 7–11.
[16] *See* Settling Parties' Brief at 9.
[17] *See* Coalition Brief at 5, n. 11. The Joint Rebuttal Testimony of Eversource, Liberty, and Unitil, Exhibit 5 directly responded substantively to the Coalition's recommendation on this statutory question over the course of several pages 23:7–27:18, without raising any scope or notice concerns.

objection to inclusion of this topic being within the scope of this docket.[18]

The inclusion of the topic of load settlement and exports to the grid in this docket is further supported by the Commission's Commencement of Adjudicative Proceeding and Notice of Prehearing Conference ("Notice"). While Puc 203.12 requires a "short and plain statement of the issues presented," it also requires "reference to the particular statutes and rules involved."[19] The first sentence in the Commission's Notice under the bolded heading "Issues Presented" stated, "The issues presented in this docket, consistent with RSA 362-A:9, as amended, include, *inter alia*: whether the Commission should implement new alternative net metering tariffs, which may include other regulatory mechanisms and tariffs for customer-generators (CGs), and whether and to what extent such tariffs should be limited in their availability within each electric distribution utility's service territory." The question about exports to the grid and load settlement is stated in Section XXI of RSA 362-A:9, in other words, squarely within the statute stated, particularly evident given the Commission's use of the phrase "*inter alia*;"

> "*The commission shall consider the question of whether or not exports to the grid by customer-generators taking default service should be accounted for as reduction to what would otherwise be the wholesale load obligation of the load serving entity providing default service absent such exports to the grid.*[20]

Even as the Settling Parties assert that sufficient notice has not occurred, the Commission has authority both in rule and in precedent to waive the application of the notice requirement when, as was the case here, all parties had effective notice of the inclusion of the topic, waiver serves the public interest,

[18] 2003 N.H. PUC LEXIS 12, *5; *13 (Ann and Tim Guillemette complained against Public Service Company of New Hampshire (PSNH) alleging unlawful voltage variation at their home. After a decision favoring PSNH's position, the Guillemettes sought rehearing, arguing (among other things) it was improper to allocate the burden of proof to them. PSNH argued persuasively the Guillemettes had waived such objection because they had never raised the issue before despite the issue being explicit in the pleadings and the Guillemettes had been provided sufficient information the issue was included. "PSNH further contends that the petitioners have no basis to complain at this juncture about improper assignment of the burden of proof. According to PSNH, this is because the Commission issued a secretarial letter on May 15, 2002 placing the petitioners on notice that they would carry the burden of proof at hearing, whereupon the petitioners made no objection to this determination prior to submitting their rehearing motion. In these circumstances, according to PSNH, the petitioners have waived any right to object").
[19] N.H. Admin. R. Puc 203.12(a)(4); (3).
[20] RSA 362-A:9, XXI.

and waiver will not disrupt the orderly and efficient resolution of matters.[21]

Further, RSA 362-A:9, XXI(a)[22] specifically required the Commission to "use its best efforts to resolve such question through an order in an adjudicated proceeding, which may be DE 16-576, issued no later than June 15, 2022." That date preceded this docket and the closing of DE 16-576.[23]

If the Commission determines it would like additional evidence and briefing on the issue of load settlement and exports to the grid or the issue is not now ripe for resolution, the Coalition requests a supplemental order of notice be issued in this proceeding so the Commission may move forward on load settlement and exports to the grid in this docket as intended by the Legislature, and further, that the Commission move forward maximally implementing the requests of the Coalition while doing so.

IV. Net Metered Distributed Generation Participation in ISO-NE Markets

The Settling Parties added a request of the Commission, not referenced in the Settlement Agreement, that the "Commission can and should continue to allow distributed generation assets to register with [federally regulated] ISO-NE" while simultaneously participating in state-regulated NM—without citing any relevant statutes, case law, legal argument, or evidence in the record to support their request.[24] The Settling Parties in their Initial Brief further assert that "this practice should continue in furtherance of minimizing the costs of the net metering program, . . . is consistent with state and federal law" and "will result in just and reasonable rates, and is in the overall public interest."[25]

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[21] See N.H. Admin. R. Puc 201.05; 1983 N.H. PUC LEXIS 159, *3 ("Due to the similarity of issues involved in both petitions, and given that all customers of the Chick water system were notified of the hearing by certified mail, the Examiner overruled the objection [to notice])."
[22] NH Laws of 2021, Chapter 228:2 (SB 91, Part II, eff. 8/26/21).
[23] DE 16-576 Procedural Order Re: Closing Docket September 20, 2022 ("On September 20, 2022, the Commission issued a notice of adjudicative proceeding in Docket No. DE 22-060, in which it stated, "Docket No. DE 16-576 shall be closed").
[24] *See* Settling Parties' Brief at 9.
[25] *See* Settling Parties' Brief at 2; *see also* assertion that the Commission made a "holding from Order No. 26,450 that it is just and reasonable to register eligible DG assets with ISO-NE and flow the resulting ISO revenues for generation and capacity to the relevant utility or energy service provider (competitive supplier or municipal aggregation) to offset the costs of issuing net metering credits" *id*. The Order had no such specific holding; the

The Coalition provided extensive testimony as to how such a practice may be contrary to state and federal law[26] and more importantly, why it is contrary to the public interest and good public policy; it does not "maximize any net benefits while minimizing any negative cost shifts," a key consideration under RSA 362-A:9, XVI(a).[27] The Settling Parties rightly highlight the avoided cost benefits that "load reducers" produce, according to the VDER study, produce benefits over and above the costs associated with those load reducers. That supports an *initial* conclusion that overall there is minimal undue cost shifting. However, CGs registering with ISO-NE as "Generators" do not function as "load reducers." Thus, they do not produce most of the avoided cost benefits detailed in the VDER study. ISO-NE Generators do create energy and capacity value as generators in the ISO-NE markets, but the Generator benefits are lower than the load-reducing benefits cited in the VDER study.[28]

In responding to the Commission's question of "why rates that result in cost shifting between Eversource's net-metered and non-net-metered customers are just and reasonable," the Coalition concurs with the Settling Parties that "to determine what net metering is costing non-DG customers, the monetary

Commission approved a Settlement Agreement allowing the practice, but the Commission specifically noted, "We note that paragraph C of the Settlement Agreement addresses a form of cost mitigation relating to wholesale market revenues attributable to registration of net metered facilities with ISO New England. Settlement Agreement at 2–3. We find it appropriate to further investigate the adequacy of Eversource's cost mitigation efforts. We direct Staff to identify and evaluate additional cost mitigation strategies in the ongoing net metering docket, DE 16-576." DE 26,450 at 8; *see also* Eversource's response to CPCNH Data Request 2-003(d) at Exhibit 13 at 70.

[26] To the extent the Settling Parties urge the Commission to disregard portions of the testimony of Coalition witness Clifton Below, because he is not an attorney-at-law and they assert, therefore, he is not qualified to make legal argument, note that the Coalition was speaking *pro se* at that time and Mr. Below is an expert at the intersection of public policy and the law in this particular matter. *See* Exhibit 13 at 2–4. Undersigned Counsel for the Coalition, retained subsequent to Mr. Below's responses and written testimony, supports his testimony as a sound legal analysis of the relevant cited statutes and case law.

[27] *See* Coalition Brief at 20, n. 65.

[28] *See* Exhibit 13 at 17:26 to 18:2. The footnote observed the comment at Exhibit 8 at 72 that the single exception to DG creating more value as load reducers than as market participants would be micro hydro facilities because they can produce more capacity value by participating in the ISO-NE market than as a load reducer. However, at Hearing the witness for Dunsky on the VDER study (Anirudh Kshemendranath) testified that that statement did not consider the loss of avoided transmission costs that would result from participation in the ISO-NE markets (Hearing August 20, 2024 67:1–68:20). Considering avoided cost value as evidenced by Exhibit 8 at 98, Table 13 and Exhibit 14 at 35, Table 22 "Transmission Charges" line for both would seem to indicate more value for micro hydro as a load reducer than as an ISO NE market participant when avoided transmission charges are considered. *See also* Exhibit 5 at 24:18 to 26:8 and Exhibit 10 at 16:16–20.

benefits to those customers must also be accounted for."[29] The Coalition also concurs the VDER Study data in Exhibits 8 and 9 provide a good basis for estimating overall benefits at the present time ("Systems installed in 2024").[30] The flaw in the Settling Parties' analysis is in assuming that 100% of the NM generation being paid (approximately $36M) functions as load reducers. That is not the case for CGs that are ISO-NE Generators, which produce less than 20% of the presumed avoided cost benefits in the VDER Study. **Attachment B** to this Reply Brief details a comparison with Settling Parties' Attachment A to their Initial Brief to show how the calculation changes when accounting for the reduced avoided cost value for Generators.

The avoided costs benefits realized only by "load reducers," and not by ISO-NE Generators, include energy; capacity; transmission costs; ancillary services; and related line losses.[31] These constitute about 81% to 89% of the total avoided cost value stack (excluding environmental externalities). While these offset revenues from ISO-NE market participation, it is considerably less than the avoided cost value.[32] Hence, if 100% of NM CG were to register with ISO-NE as Generators, as the policy advocated by the Settling Parties would allow, then the range of avoided cost values produced would decrease to about $6M to $8M, substantially less than the approximate $36M cost, even after including the ISO-NE market revenues. The record lacks the amount of generation exported to the grid by NM CGs that are also participating as Generators in federally regulated wholesale markets because Eversource was not able to produce it.[33] Note, the Settling Parties' used *estimated* production for PV rather than the *actual* generation that compensation is based on.[34]

[29] *See* Settling Parties' Brief at 7.
[30] *See* Settling Parties' Brief Attachment A at 2:4–5 in table, Exhibit 9 VDER Addendum Table B.3.
[31] The remaining benefits they are assumed to cause, regardless of whether or not they are ISO-NE market participants, are DRIPE, avoided distribution OPEX, and avoided distribution capacity, which is the largest value and one of the more difficult ones to calculate for any specific project. *See* Attachment A and Exhibit 8 at Bates 21–24.
[32] *See* Hearing Exhibit 8 at 72.
[33] *See* Hearing Exhibit 13 at 16:24–27.
[34] *See* Settling Parties' Brief Attachment A (emphasis added).

Based on the available data in the record and a few reasonable assumptions explained in **Attachment B**, the annual production of the 49 ISO-NE market participants can be estimated to be on the order of 56,465 MWh[35] compared with the 222,662 MWh assumed by the Settling Parties to be produced by Eversource's NM CGs. The avoided cost value these CGs do not produce if they are not functioning as "load reducers" is on the order of $7M,[36] while the market revenue they do produce is on the order of $4M.[37] This reduces the estimated net benefit on the order of $3M,[38] meaning a cost shift to non-NM customers arguably on the order of $3M—avoidable if these 49 market participants were instead functioning as "load reducers."

To avoid unnecessary distraction and litigation on this issue, and recognizing different positions, the Coalition's recommendation in its Post-Hearing Brief is for CGs that want credit for avoided transmission costs to not register with ISO-NE as a generator. The Coalition requests the Commission have this proceed on a "carrot" approach by incentivizing existing CGs under NM 2.0 to transition to NM 3.0 to receive credit for avoided RNS charges and, therefore, willingly retire from ISO-NE and benefit non-NM customers with reduced LNS transmission costs and other avoided costs,[39] a classic market-incentive approach.

In keeping with the Settling Parties' proposal to merely maintain the status quo, contrary to a clear statutory mandate, the Settling Parties look backwards to the Commission's January 29, 2021 Order No. 26,450. That Order was important in its time, but the purpose of this docket is to "continue to develop" the NM tariffs and looking back to an Order that will likely be more than four years old when

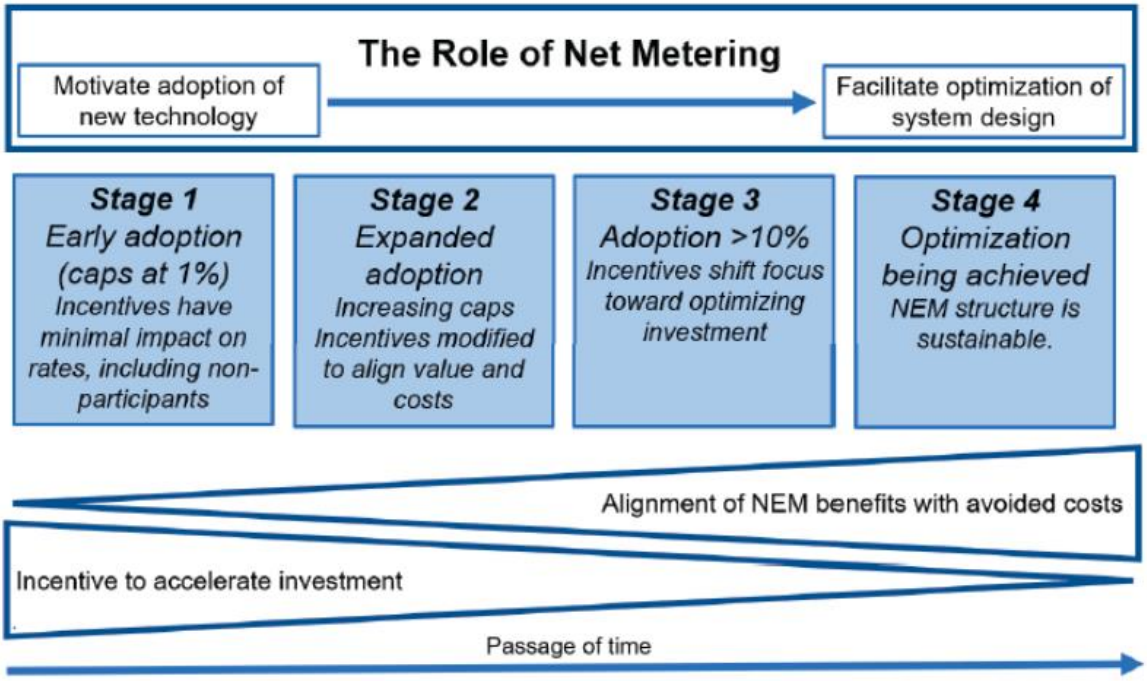
[35] *See* **Attachment B** for source of estimate of annual production of 56,465 MWh, divided by two for 6-month estimate equal to 28,232 MWh.
[36] *See* **Attachment B** for calculation and source details.
[37] *Id.*
[38] *Id.*
[39] For example, a reduction in the capacity load obligation of a supplier of 1 MW from a load reducing customer generator produces significantly more than 1 MW reduction in capacity supply obligation due to reserve margins built into the capacity supply obligation, so produces additional value as load reducer compared with being an ISO-NE market participant. See Hearing Exhibit 5 at 88 under "Market Resource Value Scenario" "1. MW Value."

the order in this docket is released is inconsistent with the statutory mandate the Commission is undertaking.

V. Only Continuing to Develop the Net Metering Tariffs Avoids Unreasonable Cost Shifting and Unreasonable Rates

The evidence in the record is that the more NM DG exists the more it becomes unreasonable to maintain the status quo, as shown for example in the below infographic from Hearing Exhibit 4.

Figure 1: Illustrative Evolution of Net Metering for Solar Compensation



[40]

The evidence in New Hampshire supports that NM has moved beyond Stage 1 and is now in Stage 2.[41] Accordingly, the role of NM should be transitioning from motivating early adoption of new technology to aligning value and costs while preparing to shift focus towards the optimization of system

[40] Hearing Exhinit 4 at 19.
[41] Hearing August 22, 2024 at 129:7–18.

design, according to the evidence in the record. The Settling Parties incorrectly state, "there is nothing in the record suggesting anything greater than a possible *de minimis* cost shift, which certainly does not rise to the level of being unjust or unreasonable."[42] As we move through the stages of NM, as depicted above, we need to continue to develop the NM tariffs to align with our current stage and prepare the State for the next stages.[43] The evidence establishes that DG is growing, especially large DG. As a consequence, the evidence does indeed show that not developing the NM tariff will veer New Hampshire away from rates that reflect actual value and are just and reasonable and in the public interest, in other words, will result in increasingly more than a mere *de minimus* cost shift.[44] These cost shifts are only likely to grow over time and episodically become even more significant; now is the best opportunity to begin to correct these undue and unnecessary cost shifts.[45] The VDER Study supports this by citing higher benefits than the combined benefits currently credited to large CGs.[46]

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[42] Settling Parties' Brief at 5.

[43] We request the Commission take administrative notice of relevant portions of DE 23-091, the Eversource Stranded Cost Recovery Charge docket ("SCRC Docket"), and DE 24-046, the Eversource's Default Energy Service Docket (Default Docket"). From the SCRC Docket is Exhibit 8, attached here as **Attachment A**, a response to Commission Record Request RR-001 August 19, 2024, apparently the source of the Commission's citation of approximately $36M in NM expense. Hearing August 20, 2024 Transcript at 267:14 to 270:10, 272:16 to 273:3, 274:23 to 275:8, 278:5–10. Note, for the twelve months ending 6/24, Eversource had 162 large CG's (over 100 kW AC capacity) and 16,563 small CGs. So, less than 1% are large CG's, but incurred 55.5% of the NM expense ($19.7MM/($15.8MM+$19.7MM)). This shows even modest growth in large CG's can have a large impact on overall NM compensation costs.

From the Default Docket is Attachments to Direct Testimony of Yi-An Chen And Scott R. Anderson at Bates 67:6–10, which was Eversource's first proposal for recovering a large prior period under-collection in their large default service customer group, along with RPS compliance costs, and administrative costs, as has typically been done. The total of these proposed charges, none of which CG NM exports to the grid avoid or reduce, is $.08353 for the 6 months ending January 2025. If this had been charged as initially proposed, and if the 49 large CGs that are registered with ISO-NE were in the large customer group, then half a year's worth of their estimated production would be 28,232 MWh and would have earned $2.25M in undue compensation for value they do not produce or avoid.

The point is while more reliable numbers on what this cost shift actually is can be obtained, the current cost shift clearly could grow into a larger cost shift, particularly with more large CGs, so it would be reasonable to begin the process of having a compensation rate for the default energy service component that better aligns with actual avoided energy costs by having a typically modestly lower rate to pay for exports to the grid than for consumption starting with the largest CGs > 1 MW and to next include CGs> 100 kW , in conjunction with implementing a credit for avoided RNS transmission costs as requested in CPCNH's initial Post-Hearing Brief at 11–18.

[44] *See* Exhibit 32 at 5, 9–11; Exhibit 13 at 10:8–21, 19:2 to 21:11, and 23:21 to 27:18; Exhibit 14 at 4:3 to 6:5; and CPCNH Post-Hearing Brief at 11–18.

[45] *See* Exhibits 15 and 16.

[46] *See supra* n. 2.

The Coalition generally concurs with the Supplemental Brief of the Conservation Law Foundation (CLF) (except for its conclusion in support of the status quo settlement). In its Supplemental Brief, CLF cites the "overwhelming evidence of the public interest benefits that NM [Distributed Energy Resources] provide to New Hampshire."[47] CLF continues to highlight the benefits of NM by also citing the testimony of Clean Energy New Hampshire (CENH) witness Thomas Beach, "net metering results in cost decreases for non-net metering customers."[48] The record is clear that NM needs to conform with Stage 2 as seen above and align value and costs. Continually developing and refining the NM tariffs in this docket and, most importantly, aligning costs and value accurately by recognizing exports to the grid in the load settlement of all suppliers as the Coalition highlighted in its Post-Hearing Brief will help this alignment to fairly compensate NM CGs.

The Coalition agrees with the Department's statement that, "significant statutory developments in the past couple of years that impact the net metering ecosystem, such as the development of community power aggregations…"[49] Yet, as the Coalition raised in its testimony, this "significant" change is blocked for many New Hampshire residents and businesses that wish to participate in NM and receive supply credits for their excess energy exports by using Community Power Aggregation (CPA) default service. Given the lack of modernization of load settlement processes, most NM CGs[50] must remain on utility default service NM rates or lose the NM credits that allow them to afford their investments.[51] This is counter to a competitive marketplace, disenfranchises this entire rate group from competitive NM options, and hampers development of DG systems in New Hampshire. The Commission can correct this by "ordering that a stakeholder group be convened within one month of the date of this Order to develop

[47] *See* Supplemental Brief of Conservation Law Foundation at 3.
[48] *See* Supplemental Brief of Conservation Law Foundation at 5.
[49] *See* New Hampshire Department of Energy Initial Post-Hearing Brief at 8.
[50] Except those CGs on NM 1.0 and those on 2.0 that typically have net monthly consumption so do not rely on monetary credits for grid exports.
[51] CGs on NM 1.0, because their supplier is charged only for consumption net of any prior kWh exports to the grid, are typically able to go on CPA or competitive supply service, especially if they have net consumption over a year, as can some of those on NM 2.0 who have net consumption every month.

parameters" to begin to implement over a 12-month process a "modernized load settlement that allows exports to the grid by CGs that function as load reducers and net metered CG load shapes to be incorporated into the load settlement for each load serving entity provisioning default service such that exports to the grid by CGs served by each such load serving entity are accounted for as a reduction to their wholesale load obligation compared with what it would be absent such exports to the grid."[52]

VI. Load Settlement Modernization is Necessary to Avoid Unjust and Unreasonable Cost Shifting and to Realize Statutory Purposes, Including Customer Choice for Net Metered Customer-Generators

In their Brief, the Settling Parties assert several reasons why load settlement modernization should not be taken in this docket, including lack of information, public interest implications, and more.[53] The Settling Parties' assertions ignore the current, obvious problems urgently in need of solutions, especially for energy suppliers (like the Coalition) who are not able to credit NM customers at scale, do not have NM rates as a result, and therefore do not have a mechanism to incentivize a NM customer to create benefits from exporting.[54]

Consider a small municipal CPA using about 10,000 MWh/year. Assume its supply rate and avoided energy, capacity, ancillary, and line losses, for reduced load, as well as those of the utility default service provider are all equal to $0.10/kWh. As a result, it costs about $1 million per year to supply that load of 10,000 MWh. This CPA wants to put in a community solar project at a school that will produce a surplus of 1,000 MWh/year. They offer a NM credit rate of $.10/kWh, just like the utility default service credit rate. So, the CPA will pay the community solar project $100,000/year for their surplus exports. If the CPA represents only 1% of the distribution utility's system, it will get credit in their load settlement with ISO-NE for only 1% of the residual reduction (10 MWh), saving a mere $1,000 in avoided costs. The CPA still has to buy 9,990 MWh at a cost of $999,000 plus the $100,000 paid to the community solar

[52] *See* Coalition Brief at 7–8 (describing request and proposing phased in implementation).
[53] Settling Parties' Brief at 10.
[54] *See* Coalition Brief at 8–11; *see also* Hearing Exhibit 13 at 13:1–16:7.

project for their net exports, for a total of $1,099,000. That represents a higher cost then what it would be if they did not have the community solar project. The remaining 99% of the benefits from the community solar facility will flow to the distribution utility and any other suppliers operating in the service territory of the distribution utility. Meanwhile, the utility can socialize all the compensation paid to NM CGs on utility default service to all distribution customers through its stranded cost recovery charge (SCRC). Meaning, the utility has to pay $1,000,000 for each 1,000 MWh the supplier has to purchase. That undercuts the costs of the CPA by $99,000 for each 1,000 MWh generated by CPA CGs.

The distribution utilities advocate for perpetuation of these unfair advantages in offering NM services and compensations and stifling choice by refusing to even begin to modernize load settlement, which is directly contrary to applicable laws[55] and as such is unjust and unreasonable. Modernizing load settlement would help level the playing field this consideration brings into sharp focus, and not every iota of data is needed for the Commission to put into place an order that begins to phase in the modernization.

Overall, current load settlement practices shift the costs for credits paid to the SCRC collected from all distribution customers, even those that take energy services from a CPA or CEPS. The SCRC will be reduced when other suppliers are able to create competitive NM. Load settlement modernization will allow energy suppliers other than the electric distribution utility (EDU) to offer NM rates. Residential ratepayers and businesses would be able to rightfully take advantage of competition in the NM class. Competitive rates would be able to be offered by CPAs and possibly CEPS, allowing NM customers to move to other suppliers. The fewer NM customers taking service from the EDUs, the lower the impact

[55] RSA 374-F:3, IV ("Non-discriminatory open access to the electric system for wholesale and retail transactions should be promoted. The commission and the department should monitor companies providing transmission or distribution services and take necessary measures to ensure that no supplier has an unfair advantage in offering and pricing such services." *See also* RSA 374-F:3 II ("Allowing customers to choose among electricity suppliers will help ensure fully competitive and innovative markets. Customers should be able to choose among options such as levels of service reliability, real time pricing, and generation sources, including interconnected self generation. Customers should expect to be responsible for the consequences of their choices. The department should ensure that customer confusion will be minimized, and customers will be well informed about changes resulting from restructuring and increased customer choice").

NM will be on the SCRC. This will further enforce the cost-causation principle because distribution service customers that have chosen to take energy services from CPAs and CEPS would subsidize EDU energy service customers less. Their non-supply rate costs would be reduced as the SCRC would be reduced; transparent, accurate, and more modern that the current status quo.

VII. Conclusion

The Coalition is aligned with the Settling Parties on so many of the substantive issues, including maintenance of the rolling 20-year legacy period, instituting an application fee, relying on the VDER Study, gathering more data, implementing TOU rates, extending NM for generation up to just under five megawatts. But, the primary point of departure is the pace of developing the NM tariff, and that was essentially why the Coalition could not join the Settlement Agreement.

Stagnating NM development by merely continuing the status quo will put New Hampshire businesses and residents wishing to control their energy costs at even more of a competitive disadvantage than they already are. Capital investment in New Hampshire for new projects and the jobs that come with it are already being delayed. Picking up the pace of NM development in New Hampshire by modernizing load settlement processes, as state statutes require, enables access to the significant transmission cost avoidance NM brings to New Hampshire.

Dated: October 18, 2024

Respectfully submitted,

Community Power Coalition of New Hampshire

By its Attorneys,
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Certificate of Service

I certify that a copy of this pleading was provided via email to the individuals included in the Commission's service list for this docket on this date, October 18, 2024.

/s/ Amy Manzelli, Esq.