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New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, NH 03301-2429

**Re: Docket No. IR 22-076
Electric Distribution Utilities
Investigation of Whether Current Tariffs and Programs are Sufficient to Support
Demand Response and Electric Vehicle Charging Programs**

To the Commission:

Please treat this letter as the Reply Comments of the Office of the Consumer Advocate (“OCA”) in the above-referenced docket.

I. Introduction

The Commission opened IR 22-076 on November 15, 2022, to investigate compliance with the Infrastructure Investment and Jobs Act (“IIJA”), codified as 16 U.S.C. § 2621. The purpose of this investigation is to “consider whether to adopt rate mechanisms or standards concerning such demand response practices and electric vehicle charging programs” pursuant to the directives of 16 U.S.C. § 2621(b), (c), and (d)(20)-(21). The Commission invited parties to respond to a set of questions related to demand response and electric vehicle charging that it intends to consider as part of a future adjudicative proceeding.

The OCA provides these reply comments in response to the initial comments filed by parties in this proceeding. The OCA does not address all comments or every topic but reserves the right to comment on such topics in future rounds of comments.

II. Demand Response

A. Compliance with 16 U.S.C. § 2621

A threshold matter in this investigation is whether prior state action has satisfied “demand response practices” standards pursuant to the IIJA in 16 U.S.C. § 2621(d)(20). The OCA agrees with the Initial Comments of Unital Energy Systems, Inc. (“Unital”) and Conservation Law Foundation (“CLF”) that the Commission has not yet expressly adopted standards related to

promoting electric utility demand response practices as defined in the IJJA.¹ Specifically, the Commission has not adopted standards to address 16 U.S.C. § 2621(d)(20)(A) or (B)(i) related to “promote the use of demand-response and demand flexibility practices by commercial, residential, and industrial consumers to reduce electricity consumption during periods of unusually high demand” and to “establish rate mechanisms allowing an electric utility subject to the Commission’s ratemaking authority to timely recover the costs of promoting demand-response and demand flexibility practices.” The OCA therefore agrees with Unitil and CLF that it is important for the Commission to include these issues in its investigation.

B. Value and Potential of Demand Response

In their initial comments, several parties highlight the value of demand response to New Hampshire and the need to expand these programs. Eversource, Unitil, and CLF note that demand response programs can help reduce overall system costs. Specifically, Eversource explains that its existing demand response programs help to reduce ISO-NE system peak load, which reduces long-term forecasted needs for transmission and distribution investments that are paid for by New Hampshire Customers.² Similarly, Unitil states that demand response programs can help avoid “costly grid impacts resulting in avoided capacity, transmission, and distribution costs that are incorporated into electric rates on a long-term basis.”³

These parties also express the need for demand response programs to be expanded. Eversource indicates that customer interest in its demand response programs is at an all-time high and thus the programs are fully subscribed.⁴ Eversource also highlights that its residential program is 30-40 times smaller than comparable programs in Connecticut and Massachusetts⁵ and to the extent other states’ policies more aggressively promote demand response to target summer peaks, New Hampshire may face the risk of paying a higher share of overall transmission network charges in these months.⁶ In a similar vein, CLF indicates that the Commission should consider ways to expand active demand response programs for residential and commercial and industrial customers.⁷

The OCA supports these comments and urges the Commission to consider options to expand utility demand response programs through this investigation. With the cap created by House Bill 549 on the energy efficiency systems benefits charge that funds the NHSaves program, there is

¹ IR 22-076. Unitil Initial Comments at 2 and Conservation Law Foundation (“CLF”) Initial Comments at 2.

² IR 22-076. Eversource Initial Comments at 1-2.

³ IR 22-076. Unitil Initial Comments at 5.

⁴ IR 22-076. Eversource Initial Comments at 1.

⁵ *Id.* at 2.

⁶ *Id.* at 5.

⁷ CLF Initial Comments at 3.

limited funding to expand cost-effective demand response programs beyond those already included in the NHSaves program. However, as noted by the parties cited above, there is significant potential as well as a critical need to increase demand response programs.

The OCA also agrees with Eversource that there is nothing preventing the Commission from expanding demand response programs.⁸ While Eversource does not propose a mechanism outside of the NHSaves program to accomplish this end, the OCA recommends that options be explored as part of this investigation. For example, the OCA continues to urge the Commission to establish guidance to utilities for compliance with RSA 378:37-40 related to future least cost integrated plans. This statute requires utilities to adequately assess demand-side resources like demand response as an alternative to supply-side solutions. The OCA believes the statute makes clear the requirement for utilities to evaluate energy efficiency and demand response resources beyond those in the NHSaves program.

The OCA recommends the Commission consider utilizing existing statutory mechanisms and regulatory authority to encourage and allow for utilities to seek cost-recovery for investment in incremental demand response programs as part of this investigation.

III. Electric Vehicles

A. Compliance with 16 U.S.C. § 2621

As with demand response, a key question in this investigation is whether prior state action has satisfied standards for “electric vehicle charging programs” pursuant to the IJA in 16 U.S.C. § 2621(d)(21). Within its Order of Notice for this investigation, the Commission indicates it has complied with the inquiry required by 16 U.S.C. § 2621(d)(21)(A)-(D), citing the establishment of time-of-use (TOU) rate methodologies for EV charging stations for residential and commercial and industrial customers (Order No. 26,604). However, the Commission states it is still appropriate to consider within this proceeding whether any additional measures are needed to promote EV charging and access to charging infrastructure in New Hampshire. Within the initial comments, none of the parties opposed including these topics within the investigation. The OCA agrees and finds it is important to continue examining ways to promote EV charging and customer access.

B. Importance of Grid Beneficial Charging

The OCA agrees with the initial comments of Unitil that transportation electrification has the potential to add significant load to the electric system and therefore load management technologies and programs are needed to avoid increased costs to the distribution system.⁹ Peak demand is a significant driver of overall electricity system costs, and it is therefore important to provide the necessary price signals and incentives to encourage off-peak EV charging. This will

⁸ Eversource Initial Comments at 1.

⁹ Unitil Initial Comments at 10.

help avoid increases to peak demand, which would ultimately require more investment in distribution, transmission, and generation assets that would be borne by all ratepayers.

C. Managed Charging and TOU Rates

The OCA disagrees with the initial comments of Eversource regarding TOU rates. Eversource does not find TOU rates to be the most effective solution for influencing customer charging behavior and instead prefers utility intervention through load management programs like managed charging.¹⁰ The OCA cautions that not all customers will be amendable to having the utility control their EV charging equipment through a managed charging program. It is therefore important that customers have access to both TOU rates and load management programs. It is also worth noting that EV TOU rates have been highly effective in other states. For example, Pacific Gas and Electric Company's (PG&E) customers on TOU rates have been found to charge almost 50 percent less during peak periods than customers on non-TOU rates.¹¹ These rates are also becoming more common, with 28 investor-owned utilities offering a time-varying EV rate.¹²

There are also technological advancements related to electric vehicle supply equipment (EVSE) and EV telematics that can support TOU rates in a more cost-effective manner. This point is discussed by CLF in its initial comments, stating that "the use of third-party metering embedded in either EVs or EVSE has potential to assist in increasing EV owning customers' participation in managed charging programs and/or enrollment in TOU rates."¹³ Weave Grid also discusses the use of EVSE and EV telematics in its initial comments. Weave Grid states that New York is working on a testing process to obtain data and implement standards related to the utilization of EVSE and vehicle telematics as submeters to measure EV consumption and demand for EV charging sessions.¹⁴

The OCA is also aware of other jurisdictions examining the use of telematics. For example, Baltimore Gas and Electric (BGE) obtained a regulatory waiver from the Maryland Public Service Commission to use the internal metrology of residential networked Level 2 charging stations as revenue-grade metering. This allows BGE to implement an EV-only TOU rate without needing to install secondary meters.¹⁵ The PHI Utilities (Delmarva Power & Light

¹⁰ Eversource Initial Comments at 11-12.

¹¹ Frost, J., Whited, M., and Allison, A. 2019. *Electric Vehicles Are Driving Electric Rates Down*. Synapse Energy Economics, Inc. Available at: <https://www.synapse-energy.com/electric-vehicles-are-driving-electric-rates-down>.

¹² Smart Electric Power Alliance, E4TheFuture, Enel X, The Brattle Group, 2019. *Residential Electric Vehicle Rates That Work: Attributes That Increase Enrollment*. Available at: <https://sepapower.org/resource/residential-electric-vehicle-time-varying-rates-that-work-attributes-that-increase-enrollment/>.

¹³ CLF Initial Comments at 8.

¹⁴ Weave Grid Initial Comments at 6.

¹⁵ Energy Hub Website: <https://www.energyhub.com/blog/bge-byot-and-ev-charging-der-programs/>.

Company and Potomac Electric Power Company) in Maryland also leverage EV telematics for Tesla vehicles.¹⁶

IV. Conclusion

The OCA appreciates the opportunity to provide these reply comments and looks forward to engaging further in this investigation.

Sincerely,

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

Donald M. Kreis
Consumer Advocate

cc: Service list, via e-mail

¹⁶ Maryland Public Service Commission Order No. 90036 in Case No. 9478 at 30.