

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 23-047

TOWN OF HARRISVILLE

**Complaint by the Town of Harrisville Against Public Service Company of New
Hampshire d/b/a Eversource Energy**

Further Submission by the Town of Harrisville:

1. On April 3, 2023, Andrew Maneval submitted a complaint regarding certain practices of Eversource Energy ("Eversource") relating to Harrisville's implementation of its Community Power plan. That complaint was received by the Commission as having been submitted by the Town of Harrisville, which has formally adopted the complaint as its own. On April 13, 2023, the Public Utilities Commission ("PUC") issued Order No. 26,801 in this matter, allowing a certain amount of time to Eversource to respond to the Complaint.
2. On or about April 19, 2023, the Office of Consumer Advocate ("OCA") indicated its intention to participate in this matter "on behalf of residential ratepayers consistent with RSA 363:28."
3. Given that the PUC has chosen to treat this complaint as having been submitted by the Town of Harrisville, which has agreed to this treatment, the Town of Harrisville respectfully requests the right to submit the points set out below in further support of its complaint. If the PUC deems from this that Eversource should be accorded additional time for a response, the Town of Harrisville has no objection to any such reasonable extension.

The Harrisville Community Power Plan

4. Harrisville's Community Power plan was passed via a Warrant Article at the 2021 Town Meeting with near-universal support. There have been several approved updates of the Plan necessitated by changes in law and PUC regulations. The Town's Energy and Electric Aggregation Committee (the "EEAC") has worked tirelessly on these efforts, including analyzing the various options for partners in implementing the Plan, updating and informing the Town residents on developments in the matter, and becoming involved with the Community Power Coalition of New Hampshire ("CPCNH") both as a Member town and, ultimately, as a town launching its Community Power plan with and through CPCNH in its "first wave" (which is now operational).
5. Pursuant to all laws and PUC regulations, written notifications were sent out to all Town residents and a meeting was held to describe and respond to questions about the launch of

Community Power and what it would mean for individual energy customers. Questions included the treatment of net metering, in which some Harrisville residents currently participate and others have an interest in developing. Based on input provided to Harrisville by CPCNH, Eversource has failed to provide the necessary and appropriate information regarding net metering customers (and, more particularly, in respect to the amount of excess production of energy that would be exported by the individual customer to the grid for value). As a result, CPCNH and the EEAC were required to inform the Town residents that: (a) net metering customers in Harrisville would be required to “opt in” rather than have to opt out of plan participation, to ensure that they did not inadvertently lose the value of their own excess energy production; and (b) CPCNH and its representatives could not now provide value within the plan for excess production (on a monthly basis) above the amount consumed by net metering customers, due to the shortfall in information on this topic received from Eversource.

6. This announcement caused considerable confusion, anger, and disappointment. We have a community that is very interested in having and developing solar power on their own properties, and this news constituted both a disincentive to join in (opt in) as a participating customer, and potentially even created a disincentive to move forward with their own plans to develop such solar power, given the current uncertainty.
7. These circumstances place the proponents of the Community Power plan in Harrisville, and CPCNH, at an unwarranted competitive disadvantage in attempts to sign on net metering customers. Not only does this frustrate the objectives of Community Power to an inappropriate extent, but it also contravenes the objectives of New Hampshire State laws and the public policies expressed in those laws and PUC regulations.

Relevant New Hampshire Statutes and PUC Regulations

8. In New Hampshire, as is well-known, we face challenges relating to extremely high costs of power, limited diversification within the sources of our electric power supply, and (like the rest of the world) the threat of climate change. Encouraging the development and use of small-scale, local, private solar power is an obvious and deliberate choice. Indeed, RSA 362-A:1 [“Declaration of Purpose” of the Limited Electrical Energy Producers Act] states as follows:

It is found to be in the public interest to provide for small scale and diversified sources of supplemental electric power to lessen the state’s dependence upon other sources which may, from time to time, be uncertain. It is also found to be in the public interest to encourage and support diversified electrical production that uses indigenous and renewable fuels and has beneficial impacts on the environment and public health. It is also found that these goals should be pursued in a competitive environment pursuant to the restructuring policy principles set forth in RSA 374-F:3. It is further found that net energy metering for eligible customer-generators may be one way to provide a reasonable opportunity for small customers to choose interconnected self generation, encourage private investment in renewable energy resources, stimulate in-state commercialization of innovative and beneficial new technology, enhance the future

diversification of the state's energy resource mix, and reduce interconnection and administrative costs.

9. These are powerful reasons for our state to allow, support, and encourage net metering practices within the protections of a substantially competitive energy marketplace. Hence, the law further provides [RSA 362-A:9(II)] that "municipal or county aggregators under RSA 53-E may 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." Further, the law states that nothing else in those relevant provisions "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**." [Emphasis added].
10. In respect to these specified public policy interests, RSA 53-E provides this authority to municipal aggregators. RSA 53-E: 6(II) describes the aggregation plan (of the very type passed by the Town of Harrisville) in the following terms:

The plan **shall** provide universal access, reliability, and equitable treatment of all classes of customers subject to any differences arising from varying opportunities, tariffs, and arrangements between different electric distribution utilities in their respective franchise territories, and shall meet, at a minimum, the basic environmental and service standards established by the commission and other applicable agencies and laws concerning aggregated service.

III. The plan **shall** detail:

* * * *

(f) How net metered electricity exported to the distribution grid by program participants, including for group net metering, will be compensated and accounted for.

[Emphasis added].

11. RSA 53-E:7(III) clearly states that, after a municipality has approved an aggregation plan, "the electric distribution utility or utilities serving [such] municipality or county **shall** provide to such municipality or county a current list of the names and mailing addresses of all electric customers taking distribution service within the municipality or county service area, and for such customers on utility provided default service, the account numbers **and any other information necessary for successful enrollment in the aggregation**." [Emphasis added]. Thereafter, as specified in RSA 53-E:7(VI), the utility "shall" provide municipal aggregators "the names, account numbers, mailing addresses, and any other information necessary for successful enrollment in the aggregation of customers that are new to or then currently on electric distribution utility provided default service."
12. The PUC is directed by RSA 53-E:7(X) to adopt rules "to *implement this chapter* and, to the extent authorities granted to municipalities and counties by the chapter materially affect the

interests of electric distribution utilities and their customers, to reasonably balance such interests with those of municipalities and counties **for the public good.**" [Emphasis added].

13. Per this direction, the PUC adopted Puc 2200, to implement the rights and authorities created in RSA 53-E and elsewhere in state law. Puc 2203.02 is titled "Request for Usage Information from Utilities" and section (b) thereof states:

Within 30 calendar days following the date of a request made pursuant to (a) above, each utility shall provide the following load information in machine-readable format for the customers it serves in the municipality or county:

* * * *

(d) **All customer usage data provided by the utility shall include consumption power delivered to customers *and exports to the grid from customer generators* in kWh for each reported interval.** [Emphasis added].

14. The follow-up data required from utilities is addressed in Puc 2204.02(a), whereby the utilities are directed as follows:

After the commission has approved a final aggregation plan pursuant to Puc 2204.01 and the legislative body of a municipality or county has voted to approve the community power aggregation plan each utility serving the CPA service area shall provide to the municipality or county, within 30 calendar days of a written request therefor, the following anonymized customer-specific usage and related information for all customers currently receiving default service provided by the utility within the CPA service area, sorted or identified by customer rate class:

* * * *

(4) Whether the customer net meters and, if so, whether under original net energy metering terms available prior to September 1, 2017, or new alternative net metering terms and tariffs that have been available since September 1, 2017, or any subsequent successor terms and tariffs;

(5) Whether the customer is a group net metering host or a member of a net metering group with on-bill crediting, generally, if such information is known and readily available; * * *

(7) The size in kW-AC, or if not known, the size in kW-DC, of any such net-metered generation referenced in (5) above, if such information is known and readily available.

15. Then, again, in Puc 2205.05(b), the PUC directs that: "Upon request of a CPA, but not more frequently than monthly following provision of the customer list for the initial mailing pursuant to Puc 2204.05, the utility **shall** make available to each operating municipal CPA, or county CPA where there is no municipal CPA, the names, account numbers, mailing addresses, ***and any***

other information necessary for successful enrollment in the aggregation of customers that are then currently on utility default service and are located within the CPA service area.” [Emphasis added].

16. Lest there be confusion about issues pertaining to net metering, the PUC provided specifically in Puc 2205.15(a) [Net Metering by CPAs], the following: ***“CPAs shall 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 system from CPA customers with customer-sited distributed generation.”*** [Emphasis added].

Harrisville’s Complaint

17. CPCNH, representing Harrisville, has not been provided by Eversource with the information necessary to permit (and also encourage) net metering customers who export power to the grid to join in our town’s aggregation plan. Eversource should have provided this information, and it is required to do so by relevant RSAs and PUC regulations. We submit that Eversource should now be directed to provide such information to CPCNH immediately. If it fails to provide the mandated information post-haste to CPCNH, the Commission should make Eversource shareholders liable for the loss of payment Harrisville net metering customers would have received for their solar energy sales and direct payment through CPCNH to those customers.
18. It is anticipated, of course, that Eversource will refer to Puc 2204.02(a)(5) and (7) that, they may claim, only require them to provide the subject information “if such information is known and readily available.” We believe any such defense to be totally disingenuous.
19. First, such information is “known” and is “available” – “readily available” should be considered in this instance in the context of a business that produces over \$1 billion in profits annually. All of the statutes and regulations quoted above cannot be so easily tossed aside simply because Eversource employs an information system that it may claim does not allow it easily to comply with state law and policy. Any such interpretation would simply replace the legislature and the PUC with Eversource as the governing decisional authority on this issue. That would be entirely incompatible with the PUC’s mission and purpose as a regulator. Like this issue more generally, Eversource’s current (and anticipated) actions are entirely ***anti-competitive***. The legislature intended the provision of small-scale solar energy production as being an important boon to the competitive energy market efficiencies that this state has pursued for so long. Eversource’s failure to provide customer net metering information harms competition and competitors and constitutes anticompetitive market practices.
20. Furthermore, the concept of “readily available” is, ***by its very nature***, a temporal concept. What might theoretically not be “readily” available at one stage, becomes “readily available” with the passage of time *and* the effort necessary to transform a concededly “known” body of information into a known and practicably available one. Any other interpretation simply and merely eviscerates the rule it purports to interpret. Blithely handing this decision over to Eversource, for the exercise of its own unimpeded and self-interested discretion, cannot have been the intention of the legislature or the PUC.

21. Eversource has already had a considerable length of time since the enactment of RSA 53-E and the PUC regulations to find and make available the subject information. That it has not done so violates the provisions and the clear intent of the governing law. Moreover, in violating the PUC's directives on this subject, it interferes with the PUC's legal duty to conduct the balancing of interests always with ***the public good*** very much front and center [RSA 53-E:7(X)].
22. Eversource's delays and refusals to provide this information have harmed CPCNH's ability to attract customer involvement into community power. In Harrisville, we have had to deal with angry customers who either are, or want to become, net metering customers joined in our Town's aggregation plan. CPCNH, Harrisville, and its residents all are disappointed that these developments have slowed and discouraged important, near-term investments in small-scale solar power generation.
23. Harrisville urges the PUC to direct Eversource to perform its duties as described above. Harrisville also urges the PUC to make Eversource liable for the damages incurred by Harrisville net metering customers as a result of the utility's failure to comply with the Commission's regulations and state law in order to provide full and fair compensation for solar production by net metering customers in the Town. If, however, the PUC considers that Eversource is acting within its current rights in withholding such information, then Harrisville vehemently and sincerely recommends that the PUC immediately reconsider the current form and meaning of its regulations on this topic. The state's interests, customers' interests, and environmental interests are all frustrated by such a glitch in the right and authority of CPAs to promote net metering electric production. While we believe that Eversource is ***already*** clearly required to provide this information, if the PUC disagrees with this conclusion, we urge it to take all responsible, immediate action to resolve this injustice in revised regulations.

Respectfully submitted,

Andrew Maneval
Chair, Harrisville NH Select Board