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DEPARTMENT OF ENERGY  
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September 30, 2024

**Transmitted via Email only.**

Mr. Clifton Below, Chair  
Community Power Coalition of New Hampshire  
1 Court Street, Suite 300  
Lebanon, NH 03766

Re: CPT 2023-002, Complaint of Community Power Coalition of New Hampshire against Public Service Company of New Hampshire d/b/a Eversource Energy; Final Disposition

Dear Mr. Below:

The Department of Energy (DOE or Department) has reviewed and investigated the complaint submitted by the Community Power Coalition of New Hampshire (CPCNH or Complainant) against the Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource or Company). A major complaint of CPCNH is that Eversource is not abiding by the EDI Standards established by the *Electric Utility Industry Restructuring*, Order 22,919 (May 4, 1998). For reasons discussed, the Department declines to analyze whether Eversource is violating *Electric Utility Industry Restructuring*, Order 22,919 (May 4, 1998) since this Order is from 1998 and approved the EDI Working Group's recommendations "temporarily" under the assumption that EDI rules would be drafted.<sup>1</sup> Almost twenty-six years since that Order was issued, there are still no EDI rules in place. *But see* Pre-Hearing Order in DE 23-063, p. 7 (September 29, 2023).<sup>2</sup> The Department also believes many of the concerns raised in this complaint are simultaneously being addressed in Public Utilities Commission (PUC) Docket DE 23-063, and therefore should be adjudicated in that forum. In addition, as discussed in more

<sup>1</sup> "In order to meet the statutorily imposed date for retail competition as well as the time lines proposed in the report, we will temporarily adopt the Working Group's recommendations pending the outcome of a rulemaking on the implementation of EDI standards. Specifically, each distribution company is directed to implement the report's requirements." *Electric Utility Industry Restructuring*, Order 22,919, p. 1 (May 4, 1998).

<sup>2</sup> "Finally, the time has come to follow through on the Commission's stated intention in Order No. 22,919 (May 4, 1998), and to engage in a rulemaking to review EDI standards on a statewide basis. We therefore will open a new rulemaking docket and request advance public comment on subject matter of possible rulemaking as an initial step in facilitating a Commission overseen review of New Hampshire's EDI standards." Pre-Hearing Order p. 7.

detail below, the Department has agreed to accept and consider the issues originally raised in PUC Docket No. DE 23-062.

### **DOE Complaint – CPT 2023-002**

On June 13, 2023, CPCNH submitted a complaint to the DOE for resolution which the DOE docketed as CPT 2023-002. On July 24, 2023, Eversource submitted a response to that complaint. On October 30, 2023, the DOE sent a letter to Eversource asking the Company to clarify its response as it related to CPCNH’s concerns that Eversource was requiring the electronic data interchange (EDI) enrollments sooner than allowed by its tariff. On December 14, 2023, the Company provided a formal response to the DOE. On January 9, 2024, Eversource, CPCNH, and the DOE met to discuss the DOE complaint. At the end of the meeting, CPCNH agreed that it would provide an updated outline/table addressing all resolved and outstanding issues raised at this meeting. CPCNH also agreed that it would specify in the outline if any of the issues were also raised in the PUC Complaint (DE 23-062), DE 23-063, or in the EDI Working Group. On January 19, 2024; January 26, 2024; and February 2, 2024, the Department of Energy asked CPCNH for this information. On February 29, 2024, CPCNH provided this information to the DOE and provided a helpful outline of CPCNH’s outstanding allegations:

- Issue 1: Eversource has not provided negative usage data from net energy metered customers contrary to Puc 2204.02(a)(2) and Puc 2203.02(d);
- Issue 2: Eversource is failing to identify CPCNH customers by TOU rate class required by EDI standards or Puc 2205.13(a)(4);
- Issue 3: Eversource is not providing TOU Usage Data for TOU Rate Customers required by *Electric Utility Industry Restructuring*, Order No. 22,919 (May 4, 1998), Eversource’s tariff, and Puc 2205.13(a)(7);
- Issue 4: Eversource is not allowing CPCNH to offer TOU supply rates on consolidated billing in violation of Puc 2205.16(c)(2); and
- Issue 5: Eversource is Requiring EDI Enrollment to be Submitted Sooner than What is Required by the Rule.<sup>3</sup>

In its February update, CPCNH stated that Eversource had partially corrected the TOU issue. “CPCNH has subsequently learned that Eversource does provide accepts [*sic*] 2-part TOU supply rates submitted by the community power aggregators (“CPAS”) for Class LG customers on consolidated billing but not for any other customer class.” February 29, 2024 Update p.14. Later that same day at 7:28 PM, CPCNH sent an email to the Department and Eversource indicating that Eversource is not able to provide TOU

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<sup>3</sup> For better clarity, the DOE retitled and expanded CPCNH’s original list of issues. To review CPCNH’s original list of items please see CPCNH’s May 15 Update p. 8.

rates for LG customers with interval metering.<sup>4</sup> CPCNH attached an email from Calpine to this email. CPCNH stated that it would prepare a letter to correct the record. The Department did not receive any correction from CPCNH. On April 24, 2024, the Department issued a letter to CPCNH requesting that it supplement the record regarding this issue by May 15, 2024. On May 15, 2024, CPCNH provided this update to the Department and provided a revised February 29<sup>th</sup> Update (one clean and one with red-line changes) (CPCNH's May 15<sup>th</sup> Update).

### **PUC Complaint – DE 23-062**

On June 13, 2023, CPCNH submitted a complaint to the PUC, which the PUC docketed as DE 23-062. In both complaints, CPCNH alleged, in part, that Eversource was not adhering to the Puc 2200 rules. Although the complaints are similar, there are several issues raised in the PUC complaint that were excluded from the DOE complaint. On July 10, 2023, Eversource provided a response to the PUC complaint, and on July 17, 2023, CPCNH filed its reply. There was no further action in the PUC docket until April 24, 2024, when the PUC scheduled a status conference on May 8, 2024 and required the parties to file written updates by May 1, 2024. At the status conference, the parties discussed that it would be optimal for the DOE to issue its decision in this proceeding prior to any ruling by the PUC.<sup>5</sup> Eversource and the OCA also agreed that the DOE now has the jurisdiction to resolve the three issues raised in the PUC complaint and therefore it would be administratively efficient for the DOE to review those issues as well. Therefore, on May 8, 2024, the PUC Clerk's Office issued a Report closing DE 23-062.

### **DE 23-063**

On June 14, 2023, Eversource, Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty ("Liberty"), and Unitil Energy Systems ("Unitil") (collectively known as "Joint Utilities") filed a petition for a waiver from certain provisions of the Puc 2200 rules, which the PUC docketed as DE 23-063. On September 29, 2023, the Commission issued a prehearing order, which made the following rulings: 1) granted the Joint Utilities a temporary waiver of Puc 2205.16(d)(1) for the pendency of this docket; (2) determined that usage data included negative usage data as used in Puc 2205.13(a)(7) and Puc 2203.02(d); and (3) granted Eversource temporary waivers of Puc 2204.02(a)(2) and Puc 2205.13(a)(7) until such time as the utility has the technological capabilities to provide this data. In this Order the Commission also stated that it would "open a new rulemaking

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<sup>4</sup> CPCNH wrote: "I saw the attached email from Sam Schmidt, VP Application Support at Calpine Energy Solutions, our EDI vendor, that Eversource's EDI operations team had reversed position from their previous advice that 2-part TOU rates could be provided to customers on rate LG, to say that in fact their system would not support 2-part TOU rates for LG customers with interval metering, so not for any rate class for CEPS or CPAS trying to use consolidated billing. Thus, some of our statements about our understanding of Eversource's EDI/EBT capability discussed in our status update are no longer accurate."

<sup>5</sup> At the hearing, CPCNH was in favor of staying DE 23-062 whereas Eversource was in favor of closing it, as CPCNH was concerned that DOE would not allow CPCNH to amend its DOE complaint to consider the issues raised only in the PUC complaint.

docket” to review EDI standards.<sup>6</sup> On December 12, 2023, the PUC approved a request filed by Eversource on behalf of all parties to temporarily suspend the current procedural schedule as the parties had made progress toward resolving pending issues.

On March 22, 2024, the Joint Utilities filed a Motion for a Pre-Hearing Conference and request for a supplemental order of notice clarifying that the proper scope of the docket is the Joint Utilities bill-ready<sup>7</sup> billing proposal and that dual billing<sup>8</sup> be considered in a separate docket. On March 28, 2024, CPCNH and the Conservation Law Foundation (CLF) (Movants) filed a Joint Motion (Movant’s March 28<sup>th</sup> Joint Motion) requesting the PUC to, in part, issue supplemental orders of notice confirming the scope of the docket, invite testimony from interested parties, schedule a prehearing conference and grant additional temporary waivers to Eversource, Unutil, and Liberty.<sup>9</sup> In this pleading the Movants argued CPAs and CEPs cannot provide TOU rates or credits for net-metered excess generation on a rate-ready<sup>10</sup> basis or on a dual-billing basis. However, the Movants explained their preference for the Joint Utilities to offer TOU rates and Net-Metering credit programs “on a dual-billing basis as an acceptable, interim alternative.” Motion p. 6-7. The Movants also stated that:

“each utility is obligated to provide CPAs and CEPS with each customer’s full billing determinants that are in the utility’s possession at the close of every billing cycle, which include negative usage data for [net-metering] customers and usage by interval for customers on 2-part and 3-part TOU rate structures, all of which are supported by the NH EDI Standards and

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<sup>6</sup> “Finally, the time has come to following through on the Commission’s stated intention in Order No. 22,919 (May 4, 1998), and to engage in a rulemaking review EDI standards on statewide basis. We therefore will open a new rulemaking docket and request advance public comment on subject matter of possible rulemaking as an initial step in facilitating a Commission overseen review of New Hampshire’s EDI standards.” Pre-Hearing Order p. 6.

<sup>7</sup> The PUC rules define consolidated billing service as where the utility issues “a single monthly bill which . . . include[s] the CPA’s charges for electric power supply and energy services for such customers as well as the utility’s charges for electric service.” Puc 2205.16(a)(2).

Bill Ready is a form of consolidated billing where the utility reads the meter, calculates the usage and communicates it to the CEPS or the CPA. The CEPS or CPA then calculates their own charges and sends these line items back to the utility to be presented on the energy supply portion of the bill. The customer only receives one bill.

<sup>8</sup> Dual billing is when the utility and the CEPS or the CPA bill the customer separately for their respective charges. Under dual billing the customer receives two bills, one from the utility for delivery and one from the CEPS or the CPA for the energy supply.

<sup>9</sup> Through the various dockets on these topics and the Working Group, CPCNH learned that Liberty in addition to Eversource was not providing negative usage data, and therefore also needs a waiver to Puc 2205.13(a)(7).

<sup>10</sup> Rate Ready is a form of consolidated billing where the competitive electric power supplier (“CEPS”) or community power aggregation (“CPA”) has provided the utility with the per kWh price for energy. When issuing the monthly bill, the utility calculates the usage and then calculates the supply portion, using the price per kWh provided by the CEPS, and includes that on the energy supply portion of the bill.

were ordered to have been implemented by the Commission twenty-six years ago pursuant to Order No. 22,919.”

In this pleading, the Movants also emphasized the need for the Joint Utilities to identify TOU customers.

On April 3, 2024, the OCA filed a response, which in part, agreed with the Movant’s request that the PUC issue “a supplemental order of notice that clarified the scope of the instant proceeding to cover the many issues identified by [the Movants].” That same day the DOE submitted its own recommendation that the PUC issue a supplemental order of notice to examine the proposal for dual-billing.<sup>11</sup> On April 5, 2024, the Joint Utilities objected to the March 28, 2024 pleading, in part, because the Joint Utilities did not have proper notice as required, by RSA 541-A, regarding the request for dual-billing. Given the pending Motions and pleadings, the PUC scheduled a pre-hearing conference to address the scope of this docket for May 2, 2024. On April 26, 2024, CPCNH filed a Response to the Joint Utilities’ Objection and April 30, 2024, the Joint Utilities filed an Objection to CPCNH’s Response. On May 15, 2024, the PUC issued a procedural order setting a deadline for the parties to file initial briefs by June 14, 2024, and reply briefs by June 28, 2024, addressing in part whether the Joint Utilities are entitled to a temporary and/or permanent waiver of Puc 2205.16(d)(1), Puc 2204.02(a)(2), and Puc 2205.13(a)(7) and what kind of billing system is required under New Hampshire law. On June 17, 2024, the Joint Utilities filed a Brief and the OCA filed its brief. And on June 28, 2024 CLF and CPCNH filed a Reply Brief (“Joint Interveners June 28<sup>th</sup> Reply Brief”) and that same day the Joint Utilities filed a reply brief.

### **EDI Working Group**

On December 5, 2023, the Department announced that it would be convening an EDI Working Group in early 2024 with the first meeting focused on working group governance, future agenda items, and other relevant issues.<sup>12</sup> The EDI Working Group formed two subgroups: a Business Rules Subgroup and an EDI Technical Standards Subgroup. Given the proceeding in DE 23-063, the Business Rules Subgroup decided to temporarily suspend their meetings. The EDI Technical Standards Subgroup has continued to meet to discuss “the EDI transactions supported by each utility as well as the specific capabilities and requirements of the utilities and suppliers relative to the provision of data necessary for dual billing.” DOE Initial Comments, DE 23-063, p. 4 (June 14, 2024). This working group may be a forum to further address CPCNH’s concerns that the utilities are not adhering to the EDI Working Group’s Reports, which were “temporarily” adopted in the *Electric Utility Industry Restructuring*, Order 22,919 (May 4, 1998).

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<sup>11</sup> Not relevant to this proceeding, but the DOE also recommended that the issues regarding load settlement raised in the March 28, 2024, pleading be addressed in a separate PUC docket. The DOE will not consider any of CPCNH’s arguments related to load settlement here. It is the DOE’s recommendation that such issues be addressed in a separate docket.

<sup>12</sup> [edi-working-group-meeting-announcement.pdf \(nh.gov\)](#)

### **Amended DOE Complaint**

After the PUC closed the docket in DE 23-062, CPCNH contacted the DOE, copying Eversource and the OCA stating “CPCNH would like to have the opportunity to incorporate what was contained in the PUC complaint into this complaint.” The DOE accepts this amendment and will review the four issues raised in DE 23-062 in addition to the issues raised in the initial DOE complaint. On May 17, 2024, the DOE informed the parties that it would take notice of the record developed in DE 23-062 and set forth the following deadlines:

- June 11, 2024: Eversource’s deadline to respond to CPCNH’s May 15<sup>th</sup> Update; and
- June 19, 2024: CPCNH’s final deadline to respond to Eversource’s June 11<sup>th</sup> submission. The DOE explained that CPCNH’s response would be limited to five (5) pages in length double-spaced.

The DOE also reiterated that it would issue a decision after the June 19<sup>th</sup> deadline and that CPCNH can petition the PUC for an adjudicative hearing if it is unsatisfied by the DOE’s disposition of its amended complaint. On June 11, 2024 Eversource responded to CPCNH’s May 15<sup>th</sup> Update (“Eversource June 11<sup>th</sup> Response”) and on June 19, 2024 CPCNH provided a Reply to Eversource’s June 11, 2024 response.

The four allegations that CPCNH raised in its PUC complaint that are now a part of this complaint include the following:

- Issue #6: Eversource is not Providing Consolidated Billing for community power aggregation programs (“CPAs”) with TOU rates or NEM rates.
- Issue #7: Is Eversource required to provide TOU interval data pursuant to Puc 2203.02(d) and Puc 2204.02(a)(2);
- Issue #8: Whether CPCNH is an appropriate counterparty to Eversource’s supplier agreement and the extent to which the supplier agreement needs to be modified to conform with Puc 2200 rules and RSA 53-E;
- Issue #9: Whether Eversource’s refusal to prorate CPA rates on a calendar month basis like they do for their own default energy service is anticompetitive and violates RSA 374-F:3?<sup>13</sup>

CPCNH also raised in the PUC complaint the issue of bill-ready billing. Since this issue is being addressed extensively in DE 23-063 and that docket is still ongoing, the Department will not address bill-ready billing here.

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<sup>13</sup> For clarity in addressing CPCNH’s arguments, the DOE has expanded some arguments to be stand-alone issues.

**Issue #1-Eversource is not providing negative usage data ~ Issue deferred to DE 23-063.**

CPCNH argues that Eversource (in addition to Liberty) has not provided negative usage data<sup>14</sup> from net energy metered customers contrary to Puc 2204.02(a)(2), Puc 2203.02(d), and Puc 2205.13(a)(9). Eversource can only provide the positive and negative usage data quarterly in arrears and not monthly as CPCNH believes the rule requires.<sup>15</sup> Movant’s March 28<sup>th</sup> Joint Motion p. 14-15. Eversource argued in its June 11<sup>th</sup> Response that Unitil and NHEC are able to provide negative usage data via EDI “because those companies have advanced metering infrastructure, which requires billing systems that are capable of supporting AMI.” p. 4.

CPCNH’s argument has credence because in DE 23-063 the PUC provided clarity that these rules, Puc 2203.02(d) and 2205.13(a)(9), do include both “positive and negative values for each reported interval.” Pre-Hearing Order p. 5. Therefore, it is possible that Eversource has been violating this rule as CPCNH contends. But, Eversource is no longer in violation because in that same docket, the PUC temporarily waived the requirements of Puc 2204.02(a)(2) and 2205.13(a)(7) for Eversource until such time as the utility has the technological capabilities to provide CPCNH with this data.<sup>16</sup> Furthermore, in the March 28, 2024 Motion in DE 23-063, CPCNH and CLF agreed with Eversource (and the PUC) that Eversource (and Liberty) should have a temporary waiver of Puc 2205.13(a)(7) and not be required to report negative usage data until it has the necessary system changes in place. Movant’s March 28<sup>th</sup> Joint Motion p. 20.<sup>17</sup> Given that Docket DE 23-063 has begun to address this issue, the Department will defer this issue to that docket.

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<sup>14</sup> Negative usage data is when a customer exports more electricity than takes in from the grid.

<sup>15</sup> “These reports would include negative usage data for individual NM customers, but only be made available to CPAs upon request once every quarter (i.e., every three months).” Movant’s March 28<sup>th</sup> Joint Motion p. 14.

Puc Rule 2203.02(d) states, “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.”

<sup>16</sup> It is the DOE’s understanding from reviewing DE 23-063 that Liberty is not able to provide negative usage data, and therefore needs a temporary waiver from the requirements of Puc 2205.13(a)(7). *See* Movant’s March 28<sup>th</sup> Joint Motion p. 14-15, 20. The PUC has not yet ruled on this request.

<sup>17</sup> In its prayers for relief, the Movants requested: “Extend Eversource’s temporary waiver and grant Liberty the same temporary waiver, regarding provision of negative usage data under Puc 2205.13(a)(7) until such time as each utility implements the EDI system changes necessary to provide individual NM customer energy export data to CPAs and CEPS each month . . . .” Movant’s March 28<sup>th</sup> Joint Motion p. 20.

**Issue #2-Eversource is not providing the TOU rate class for customers ~ Eversource is not required to provide this information, but should work with CPCNH in order to provide it.**

In its original complaint to the DOE, CPCNH argued that Eversource is violating EDI standards and Puc 2205.13(a)(4) by not identifying CPCNH customers by a TOU rate class such as R-OTOD, R-OTOD-2, G-OTOD, and EV-2.<sup>18</sup> CPCNH also stated in a later filing that Eversource does provide TOU rates via EDI.<sup>19</sup> May 15<sup>th</sup> Update p. 20. However, it is the DOE's understanding that just because it is provided on EDI does not mean that there are the capabilities to pull this information from the system and Eversource is not under an obligation pursuant to the rules or otherwise to create custom reports for CPCNH, especially where it is unclear how much these upgrades will cost and whether CPCNH will pay for them. *See* Puc 2205.16(c)c.<sup>20</sup>

In reviewing CPCNH's concerns, the DOE will review the PUC rules but will not address whether Eversource is violating the EDI standards and Order No. 22,919. Instead, regarding the EDI standards and Order No. 22, 919, the DOE encourages the parties to continue to discuss these issues through the EDI Working Groups.

Rule Puc 2205.13(a)(4) requires the Company to provide the CPAs code for each account "to the extent applicable." *See also* Puc 2204.03(a)(4).<sup>21</sup> Eversource argued in its response that it has no TOU rate classes. "TOU customers are a subset of a rate class, they do not comprise a rate class . . ." Eversource Response to PUC Complaint p. 7. Furthermore, Eversource argued that there are "no existing tariffed rate structure[s] with time of use energy supply." Response p.6. The rule states, "[e]ach customer rate class shall mean, **as a minimum**, each rate class or group of rate classes for which the utility

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<sup>18</sup> Rule Puc 2205.13 only applies "[o]nce an individual utility customer has become a customer of a CPA." Puc 2205.13(a).

The DOE will not address CPCNH's concerns that Eversource does not allow CPAs to provide TOU rates for consolidated billing as this issue should be addressed in docket DE 23-063 as discussed in more detail on pages 9-10.

<sup>19</sup> "As such, Eversource evidentially chose to create custom reports that provide CPAs with less data than what was already available via EDI, which the utility should have incorporated into their custom reports. CPCNH recommends that DOE direct Eversource to standardize provision of data such that what the utility provides CPAs pursuant to Puc 2205.13(a) contains the same granularity of data that is provided via EDI in this case." May 15<sup>th</sup> Update p. 20.

<sup>20</sup> Rule Puc 2205.16(c)c. states: "All incremental costs incurred to provide any special metering, data management, or billing system modifications shall be assigned to and paid by the CPA, in which case such costs shall be: 1. Estimated by the utility to the CPA prior to the start of implementing such changes; and 2. If approved for implementation by the CPA, shall be charged to and paid by the CPA."

<sup>21</sup> "After a municipality or county has filed its approved community power aggregation plan . . . each such utility shall provide to the municipality or county, or their agent, **upon its written request** . . . for every electric customer taking service within the municipality or county CPA service area . . . (4) The rate class for each such account . . ." Puc 2204.03(a) (emphasis added).



publicly provides class average load shapes.” Puc 2203.02(c) (emphasis added). In reviewing Eversource’s website, it publicly provides the class average load shapes for NH-G, NH-GV, NH-LG, NH-OL, and NH-R. Since Eversource does not publicly provide the average load shapes for customers on a TOU rate, this subset of customers cannot be considered a rate class and therefore Eversource is not required to provide this information for each customer.

In addition to rate class, the rule requires that Eversource provide “to the extent applicable” “the code for each [CPCNH] account.” Puc 2205.13(a)(4). The rule does not define ‘code,’ and therefore it is unclear what information this entails. A code is commonly defined to mean “a system of symbols (such as letters or numbers).” If Eversource were to have a symbol assigned to a customer that denoted that customer as having a TOU rate, then arguably such a code would need to be provided to CPCNH. However, it is unclear whether such code exists and even if it does exist, the utility is not necessarily under an obligation to provide it. The rule also recognizes that a utility need only provide this information “to the extent applicable.” Puc 2205.13(a)(4). It is unclear who determines whether this information is applicable. But according to CPCNH this information would be necessary and applicable to its business.

In summary, without an order of the PUC otherwise, the Department cannot say that Puc 2205.13(a)(4) and Puc 2204.03(a)(4) require Eversource to provide this information. However, the DOE is supportive of ongoing efforts to provide this information to the CPCNH.

**Issue #3-Eversource is not allowing CPCNH to offer TOU supply rates on consolidated billing implicitly in violation of Puc 2205.16(c)(2) and PUC Order No. 22,919 ~ No clear rule violation and issues related to consolidated billing are deferred to DE 23-063.**

CPCNH argues that Eversource failed to respond to its argument that it does not provide consolidated billing services to support TOU rates for CPAs and CEPS in violation of Puc Order 22,919<sup>22</sup> and Puc 2205.15(c)(2). Administrative Rule Puc 2205.16(c)(2) states that the

“Terms and conditions provided by the utility for CPA billing services shall: (2) Allow a CPA to define on-peak, mid-peak, and off-peak periods or other pricing options and rate structures that are different from those defined in the utility’s applicable tariff . . . provided that: a. The requested rate structures, customer class definitions, and availability requirements are within the capabilities of the utility’s billing system, customer information system or meter data management system . . . c. All incremental costs incurred to provide any . . . billing system modifications shall be assigned to and paid by the CPA . . . .”

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<sup>22</sup> For reasons already discussed, the DOE will not analyze whether Eversource violated Order 22,919 in this regard.

CPCNH argues that this rule suggests that it should be able to offer the rates that Eversource offers and that if CPCNH is offering the TOU periods as provided in the utility tariff then there should not be additional costs. CPCNH May 15<sup>th</sup> Filing p. 20-21. Eversource has consistently reiterated that it only offers TOU pricing based on the distribution, and not the supply portion of the bill. And the DOE has no information to indicate that Eversource is incorrect in this statement. Eversource June 11<sup>th</sup> Response p. 5-6. Given that Eversource is only offering TOU rates on the distribution portion, it is unclear how Eversource is violating Puc 2205.16(c)(2). For one, it is unclear whether Eversource has the ability to provide this information, and Puc 2205.16(c)(2) only applies if the capabilities are within Eversource's billing system. Puc 2205.16(c)(2)a. Second, the rule states that any billing system modifications are to be paid for by CPCNH. Puc 2205.16(c)(2)c. Therefore, the DOE does not find that Eversource has violated Puc 2205.16(c)(2) and defers further discussion on this topic to DE 23-063 as it relates to consolidated billing and which entity (CPCNH or Eversource) should pay for billing modifications.

**Issue #4-Eversource is not providing usage data based on TOU reported intervals in violation of EDI standards and Puc 2205.13(a)(7) ~ No clear rule violation, but the parties should work together especially considering that this issue appears to be partially resolved.**

Administrative rule Puc 2205.13(a)(7) requires the Company to provide to CPCNH, once a utility customer becomes a customer of a CPA,

“The most recent 24 months, if available, or 12 months otherwise, of usage data in kWh for each monthly interval for accounts reported in monthly intervals for load settlement, and for each hourly interval for accounts reported in hourly intervals for load settlement.”

The rule does not specify whether the usage data should clarify whether the customer is on a TOU rate, and therefore the DOE cannot say that the utility is violating the plain meaning of the rule. It is also unclear to the DOE whether this issue can be resolved among the parties. In CPCNH's May 15<sup>th</sup> Update, it explained “Eversource is providing usage by TOU period as part of 810 monthly usage files and in the EDI 814 files [CPCNH] receive[d] a rate code that identifies customers as being on a TOU rate . . . however, the EDI 867 historic usage files only show total monthly usage and do not consistently identify customers on TOU rates.” p. 18-19 n. 31. In Eversource's June 11<sup>th</sup> Response, it explained: “TOU customers' usage information is provided in peak/off-peak form in the Puc 2205.13 report. . . . the Puc 2205.13 report provides more data than either the EDI810 or EDI867.” p.5. CPCNH per Puc 2205.16(c)(2) is free “to define on-peak, mid-peak, and off-peak periods or other pricing options and rate structures that are different from those defined [by] the utility . . . .” The DOE also agrees with CPCNH that it is difficult to design its own pricing options and rate structures, if it does not know what default customers are receiving from Eversource. Nevertheless, the plain meaning of Puc 2205.13(a)(7) does not require that usage data be provided specifying TOU reported intervals.

CPCNH also argued that Eversource is not providing this information in violation of *Electric Utility Industry Restructuring*, Order No. 22,919 (May 4, 1998). The DOE declines to analyze this argument because this Order was drafted under the assumption that EDI rules would be drafted in the near future. To date no such rules have been written. The Department also declines to address whether Eversource is in violation of its own tariff where it states, “Suppliers will be provided with monthly usage data, at no charge, via an EDI transaction in accordance with the guidelines adopted by the Commission.”<sup>23</sup> NHPUC No. 10, Original Page 32 § 2(a). Since the PUC only approved the EDI guidelines on a temporary basis pending the outcome of EDI rules, the DOE declines to find Eversource in violation of its tariff; and this issue to the extent it remains outstanding and should be referred to DE 23-063 and the PUC.

In summary, the Department does not find that Eversource is violating Puc 2205.13(a)(7) by not providing TOU usage data because the rule does not specifically require the utility to distinguish whether the customer is on a TOU rate. Furthermore, the PUC temporarily waived this rule, albeit in the net-metering context, in DE 23-063. (It is possible that the Commission may decide to permanently waive this provision.) The DOE is hopeful that Eversource will be able to work with CPCNH to provide this information since it appears that it has, to some extent, provided it (according to CPCNH).<sup>24</sup> See CPCNH’s May 15<sup>th</sup> Update p. 18-19 n. 31. Furthermore, Eversource itself has indicated that it would be able to provide this information. Eversource Response p. 2 (citing Eversource Response to PUC Complaint p. 7).<sup>25</sup>

**Issue #5-Eversource is requiring EDI enrollment to be submitted sooner than what is required by Puc 2004.10(a) and its tariff ~ Eversource must comply with Puc 2004.10(a) and its tariff.**

In the complaint CPCNH alleges that Eversource is requiring EDI enrollment (or drops) be submitted no later than 3:00 pm, a minimum of three (3) business days prior to the next scheduled meter read date in violation of Eversource’s Tariff and the *Electric Utility Industry Restructuring*, Order 22,919 (May 4, 1998). This is not in compliance

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<sup>23</sup> “ORDERED, that the *recommendations of the EDI Working Group* as set forth in the above-mentioned report and as clarified in this order *are approved pending the outcome of a rulemaking to implement EDI standards.*” *Electric Utility Industry Restructuring*, Order 22,919 (May 4, 1998) (emphasis added).

<sup>24</sup> “CPCNH has learned that Eversource is providing usage by TOU period as part of 810 monthly usage files and in the EDI 814 files and we receive a rate code that identifies customers as being on a TOU rate . . . .” CPCNH’s May 15<sup>th</sup> Update p. 18-19 n. 31.

<sup>25</sup> “Puc 2205.13(a)(7) does not require that usage data for TOU customers be provided by TOU period-it requires either monthly or hourly reporting. Eversource is providing monthly usage data for TOU customers consistent with the requirements of Puc 2205.13(a)(7). . . . However, Eversource has voluntarily chosen . . . to make the changes necessary to provide TOU customer data by TOU period, which is to say peak and off-peak kWh. Eversource has already begun this work and currently estimates that work will be complete and the changes ready to implement by September 1, 2023.” Eversource Response to PUC Complaint p. 7.

with Eversource's tariff, and therefore Eversource should comply with its tariff and revise any training materials that state otherwise.

Eversource's Tariff No. 10 Original p. 36 §3(a) states, "Supplier Service shall commence on the date of the Customer's next meter read date, provided that the Supplier has submitted the Electronic Enrollment to the Customer at least two business days prior to the scheduled meter read date." Similarly, New Hampshire Rule Puc 2004.10(a) provides, "When a CEPS enrolls a new customer, the enrollment shall be effective for the customer's scheduled meter read date that follows EDI notification to the utility by the CEPS, provided that EDI notification occurs no less than 2 business days before the customer's scheduled meter read date. Otherwise, the enrollment shall be effective for the customer's next meter read date. In support of its allegation against Eversource, CPCNH provided an excerpt of an Eversource training guide, which states: "In other words, the EDI needs to be received by us before the 3:00 PM cut off time with a minimum of three **(3) business days** to meet the two full business days requirement."

In response to this allegation, Eversource stated, "the Company's policy is that which is represented in the tariff and echoed in Puc 2004.10(a)." Eversource Follow Up Answer to Section 6.1 of CPCNH Complaint, p. 2 (December 14, 2023) (Answer to Section 6.1"). Eversource further explained that the Company needs the full business days provided in the rule to process EDI enrollments. Answer to Section 6.1 p. 1-2. Given that the rule provides that enrollment occur at the next scheduled meter read date as long as the notification occurs "2 business days" prior, Eversource would be in compliance with the rule and tariff if it processed the enrollment at the next read date as long as CPCNH provided the notification before 4:30 pm on the third business day prior to the customer's next read date.<sup>26</sup> (In order to have two full days of notification, the notification must be provided on the preceding third day.) Therefore, Eversource should revise the training pages cited by CPCNH to be in alignment with its Tariff, Puc 2004.10(a), and this decision. Furthermore, the DOE encourages CPCNH to document clear instances when Eversource is not processing enrollments if and when notification was provided prior to 4:30 pm on the third business day prior to the next meter read date. *See* Puc 2004.10(a).

**Issue #6-Eversource is not providing consolidated billing for CPAs with NEM rates in violation of Puc 2205.16(c)(2) ~ Issue deferred to DE 23-063.**

In its complaint, CPCNH argues that Eversource is harming CPAs because it is not providing consolidated billing for customers with a TOU rate or NEM rate and cites Puc 2205.16(c)(2). A consolidated billing service, unlike a dual billing service, is "whereby the utility shall issue a single monthly bill will include the CPA's charges for electric power supply and energy services for such customers as well as the utility's charges for electric service." PUC 2205.16(a)(2). Rule Puc 2205.16(c)(2) states,

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<sup>26</sup> The DOE assumes that a business day ends at 4:30 pm as this is the close of business for State offices including the DOE and PUC. *See generally* Puc 203.11(c).

“Terms and conditions provided by the utility for CPA billing service shall . . . allow a CPA to define on-peak, mid-peak, and off-peak periods or other pricing options and rate structures that are different from those defined in the utility’s applicable tariffs . . . and to request enhanced metering services for customers to participate in programs and services beyond the provision of basic electricity supply service . . . .”

2205.16(c)(2). However, subpart (a) of this rule provides the caveat that a utility can only allow a CPA to offer certain pricing options if, “The requested rate structures, customer class definitions, and availability requirements are within the capabilities of the utility’s billing system, customer information system or meter data management system.” In its complaint, Eversource responds that it cannot provide this service and therefore pursuant to the rule, CPCNH cannot force Eversource to provide if it is not within Eversource’s means. However, given that both CPCNH and the Joint Utilities have raised the issues of dual billing and bill ready billing in detail in DE 23-063, the DOE is deferring this issue to that docket.

**Issue #7-Is Eversource required to provide TOU interval data as required in Puc 2203.02(d) and Puc 2204.02(a)(2)? ~ Issue deferred to DE 23-063**

As already discussed, the PUC in its Pre-Hearing Order dated September 29, 2023, in docket DE 23-063 temporarily waived Puc 2204.02(a)(2) and Puc 2205.13(a)(7) for Eversource.

Rule Puc 2203.02(d) read in isolation states, “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.” This rule provides no obligation on the utility to provide TOU interval data. Since the PUC temporarily waived those provisions, these issues should be reserved for docket DE 23-063.

**Issue #8-Whether CPCNH is an appropriate counterparty to the utility under Eversource’s supplier agreement and the extent to which the supplier agreement needs to be modified to conform with Puc 2200 rules and RSA 53-E ~ Issue deferred to DE 23-004.**

Although CPCNH alleges that Eversource’s electric supplier services master agreement (“ESSMA”) is in conflict with the Puc 2200 rules and RSA 53-E, this issue is not ripe to be reviewed in this docket. In a settlement agreement, signed between, Eversource and CPCNH, the parties agreed that how the ESSMA will “apply to CPAs, shall be the subject of a subsequent phase of this proceeding.” DE 23-004 p. 5. Although the Settlement Agreement was not approved by the PUC, in the Examiners’ Report and Recommended Order, the PUC Senior Advisor recommended that this matter be continued “to a second phase to . . . consider necessary amendments to Eversource’s Electric Supplier Services Master Agreement.” p. 13 (Dec. 22, 2023). Although it does not appear that the PUC approved the Recommended Order, it clearly appears that it was the intention of the parties to discuss issues with the ESSMA in the second phase of DE

23-004. Furthermore, in the May 14, 2024 update, CPCNH acknowledges that this topic “will be addressed in the second phase of DE 23-004 . . .” p. 25-26.

In arguing that CPCNH should be the appropriate counterparty to the supplier agreement and not just the CEPS, CPCNH does not point to a specific rule that Eversource is violating. According to Eversource, CPCNH is not the appropriate counterparty because CPCNH is not serving as an LSE, but instead in CPCNH’s situation, Calpine, the CEPS is serving as the LSE.<sup>27</sup> Although CPCNH does not cite a rule in support of its position, Eversource also does not fully explain why the supplier agreement must be signed by the actual LSE and not CPCNH who is under contract with Calpine, the LSE.

Since the parties agree that this issue should be deferred to DE 23-004, the DOE declines to take a position on this issue. Instead, the DOE urges the PUC to commence the second phase of DE 23-004 to resolve this issue.

**Issue #9-Eversource’s refusal to prorate CPA rates on a calendar month basis like they do for their own default energy service possibly violates RSA 374-F:3 ~ There is no violation of New Hampshire law, but this practice may be anti-competitive.**

The Department is concerned that Eversource prorates its own default service rates for the applicable portion of the calendar month when there is a rate change but does not do the same for CPCNH. CPCNH in support of its position that Eversource is “discriminating against CPA default service compared to its own” cites to RSA 374-F:3, III, IV, and VII. February 29, 2024 Update p.21. The DOE notes that RSA 374-F:3, IV states:

“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.”

In response to CPCNH’s claims, Eversource explains that it prorates rates for its own default service customers because it is required by PUC Order. Eversource is also required to prorate its default service pursuant to Puc 1606.01(b) (formerly Puc 1203.05(b)), which states: “Unless a utility petitions the commission for a waiver, all rate changes implemented as a result of a commission order, including changes occurring as a result of a default energy service . . . shall be implemented on the basis of service rendered on or after the effective date of the approved rate change.” Eversource also argued that proration is a “laborious manual effort” and that it can only be done if the rate

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<sup>27</sup> An LSE is defined as “an entity that is registered with ISO-NE as a market participant and secures and sells electric energy and related services to serve the demand of end-use customers at the distribution level.” Puc 2202.14

to be prorated “applies to groups of accounts” whereas CPA customers “are individually assigned their rates.” Eversource June 11, 2024, Response p. 6-7. Furthermore, given RSA 374-F:3, IV, Eversource may want to investigate whether it can prorate rates for CPA and CEPS customers.<sup>28</sup> But the statute only promotes competition within the electric system and does not require that Eversource must treat its default service customers and CPCNH customers the same.

For all the reasons cited above, the DOE finds that allegations #1-#4 and #6-#9 raised in this complaint are unsupported and Eversource has not violated any rules or statutes as alleged by CPCNH. In regards to issue #5, the Department urges Eversource to revise the training pages cited by CPCNH to be in alignment with its Tariff and Puc 2004.10(a). Since the Department finds that the totality of the allegations raised by CPCNH are unsupported, the DOE declines to initiate a proceeding regarding this complaint before the PUC.

The DOE has waived the filing of paper copies in this matter and this final decision is being sent electronically only.

If CPCNH is unsatisfied with the DOE’s final disposition of this complaint, then pursuant to RSA 365:4, CPCNH may petition the PUC to resolve the matter through an adjudicative proceeding.

Sincerely,

*/s/ Molly M. Lynch*

Molly M. Lynch  
Staff Attorney/Hearings Examiner

cc: David Shulock, General Counsel  
Rorie E. Patterson, Director of Administration  
Paul B. Dexter, Legal Director  
Amanda Noonan, Director of Regulatory

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<sup>28</sup> This issue was discussed at the February 27, 2024 EDI/EBT Work Group Business Rules Subgroup meeting. The DOE hopes this issue will be further discussed at subsequent meetings.