

Clifton Below

From: Clifton Below on behalf of /o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4522cd2e2fcf44c39d619e110036281a-1b8293bd-34
Sent: Thursday, May 2, 2024 12:22 PM
To: 'Frantz, Tom'; Chicoine, Jared; EllmsJr, Christopher J
Cc: Elliott, Joshua W; Deana Dennis; Brian Callnan; Thomas Cormen; Michael Vose; Jeb Bradley; avardsenate@gmail.com; David Watters; Bill Baber
Subject: RE: HB 1600

Dear Tom,

Thank you for your outreach and for providing a detailed list of the Department's concerns regarding HB 1600. We regret that we were just now made aware of these concerns, so late in the legislative process.

From our perspective, each of the issues the Department listed currently exists and has been or will be addressed for net-metered customers up to 1 MW in size through existing law and rules. Essentially, HB 1600 would extend the application of existing law for customer-generators served by CPAs from up to 1 MW size to customer-generators in the 1 to 5 MW scale. CPCNH has engaged in extensive discussion with the three investor-owned utilities about many of these issues, primarily through tech sessions in Docket No. DE 23-063.

For ease of reference, I have addressed each of the Department's concerns in red line below.

Yours truly,

Clifton Below

Chair, Community Power Coalition of NH ❖ Assistant Mayor, City of Lebanon

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From: Frantz, Tom <Thomas.C.Frantz@energy.nh.gov>

Sent: Wednesday, May 1, 2024 10:49 AM

To: Clifton Below <Clifton.Below@CommunityPowerNH.gov>; Chicoine, Jared <Jared.S.Chicoine@energy.nh.gov>; EllmsJr, Christopher J <christopher.j.ellmsjr@energy.nh.gov>

Cc: Elliott, Joshua W <joshua.w.elliott@energy.nh.gov>; Deana Dennis <Deana.Dennis@CommunityPowerNH.gov>; Brian Callnan <brian.callnan@communitypowernh.gov>; Thomas Cormen <thcormen@gmail.com>; Michael Vose <Michael.Vose@leg.state.nh.us>; Jeb Bradley <jebebrad@metrocast.net>; avardsenate@gmail.com; David Watters <watterssenate@gmail.com>; Bill Baber <Bill.Baber@CommunityPowerNH.gov>

Subject: RE: HB 1600

Dear Clifton,

We may have different opinions about how we've interacted on HB 1600 over the past several weeks, but we do agree the changes made to the original version of the bill have been beneficial. We also believe that this potentially could reduce cost-shifting. That said, it doesn't mean all the issues have been addressed nor that because the bill is short, it equates to simplicity.

The Department has expended considerable time reviewing the issues associated with HB 1600. We have identified potential issues that are not resolved with the current version of the bill, though we believe the current version is an improvement over the original bill as introduced.

Thank you again for taking the time to review. Your previous suggestions have improved the bill. By current version, do you mean the House passed version or the 4/16/24 proposed Senate amendment that we drafted based on DOE's 2/16/24 recommended changes and provided to the Senate, or perhaps an earlier draft of same? We ask this because we noticed further down in your email, you make reference to "community supplier" that we replaced with a new term "community generator" when we heard of your concern.

For example, it is unclear who will ensure and how it will be determined that the group load will be greater than the community supplier. What happens if it isn't?

This will be determined by how load settlement, and the corresponding provisions in utility tariffs, will be approved by the PUC pursuant to RSA 362-A:9, II. The simple answer is that for any given load asset ID assigned to each load serving entity the load can never go below zero for any given hour of load settlement, which is a binding requirement of ISO-NE. As a result, if NM community generators (NMCGs) exported more power to the grid than all the other customers of a given CPA load asset group consumed in any given hour then that situation will be treated as zero load for settlement with ISO-NE in any such hour. In other words, production in excess of the load asset consumption (hourly, as that is how load is settled now) will have no value so will be deliberately avoided by the CPA in this construct.

What will the registration process and requirements look like for community suppliers, and how will these entities be monitored to ensure requirements are being met? There needs to be some process in place to determine that entities attempting to register as community suppliers are indeed eligible under the statute.

The same process for applying for interconnection for NMCGs as exists today for all NM customer-generators would remain in place. It is in this interconnection process that a potential NM generator qualifies for interconnection to the distribution system and participation in net metering. The interconnection requirements are under state jurisdiction and the utility's interconnection approval process includes evaluation that they do to qualify the interconnection pursuant to utility tariffs, PUC 900 rules requirements, and extensive technical requirements for larger systems. Between DOE and the PUC there is plenty of authority to establish any new interconnection requirements that might be appropriate.

There will also need to be some oversight mechanism to ensure community suppliers are in ongoing compliance with applicable statutes and PUC rules. This oversight will likely require involvement from the community aggregation, the Department, and the distribution utility.

This would be no different than what exists today with up to 1 MW NM generators on utility or competitive supply. RSA 374-F: 3, XIV provides guidance as well. "**Administrative Processes.** The commission and the department should adapt their administrative processes to **make regulation more efficient and to enable competitors to adapt to changes in the market in a timely manner.** The market framework for competitive electric service should, to the extent possible, **reduce reliance on administrative process.** New Hampshire should move deliberately to **replace traditional planning mechanisms with market driven choice as the means of supplying resource needs.**"

In addition, most community aggregations are covered by more than one distribution utility, some by three distribution utilities, but two is not uncommon. This will complicate the oversight of this process.

The current and proposed text of HB 1600 requires that both the NMCG and the portion of the CPA comprising the load being offset to be within the same utility territory. No oversight is needed. All the accounting is by or within discrete EDUs and CPAs, and the common intersection of the two creating distinct load asset IDs by each CPA by IOU. For our members served by 2 or 3 IOUs, there is a separate load asset ID for each IOU for each jurisdiction. This removes the concern of one generator serving load in two EDU's. As a practical matter, the NMCG will need to be within the same load asset ID as the load it is offsetting, so will encourage appropriate sizing and will be properly accounted for from the get-go. Again, the details will be determined by the PUC pursuant to RSA 362-A:9, II and will be reflected in tariff language on load settlement. This already needs to be addressed for generators up to 1 MW and with HB 1600 can easily incorporate generators 1 to 5 MW, all of which routinely have hourly interval metering by the utility so are easy to accurately incorporate into load settlement.

A further complication might be the need to ensure the statute is being applied consistently across community aggregations – including those served by CPCNH.

The statute is straight forward. To the extent additional regulation seems appropriate, the DOE has authority under RSA 362-A:9, X(b) to adopt rules to “implement this section” that would include the main part of the bill under the proposed Senate amendment (proposed RSA 362-A:9, XXIV; however not under the House-passed version because the parallel provision would be in RSA 53-E).

The use of the term supplier also seems to align more with competitive energy suppliers, which have other specific requirements which possibly these generators should be meeting as well.

As soon as we heard of this concern from Josh Elliott, we changed the suggested term from “community supplier” to “community generator,” which is the version we provided to the Senate Committee and to you at the hearing (attached to our testimony). It was a good observation and with this clarification, there is no reason NMCGs should be confused with or treated as CEPS.

There is also the question of unintended consequences. While the CPCNH and the Legislature may think that this is a narrow exception to the current policy, there are plenty of entities out there that have proven they will find any loophole with unknown policy or ratepayer implications. Time is needed to think through these scenarios to ensure proper guard rails are in place to avoid this..

There were more than 60 projects in the 1-5 MW range in the Eversource interconnection queue as of last summer, and probably more by now, with only a handful now participating in net metering, mostly existing hydros. Absent this legislation, their only current option for these projects is the municipal host route and they may well get grandfathered into NEM 2.0 with the full default service rate, especially since a decision in DE 22-060, with hearings in August, is now unlikely before this coming fall. Since utility default service values all kWh the same regardless of the time of day produced, NH will continue to get sub-optimal investments that seek to maximize kWh production at the least cost, regardless of the temporal value of the production. Hence, we will get more solar built that uses up interconnection capacity, but mainly just around solar noon, when the actual value, already quite low on sunny days, will continue to decline. For CPA community generator projects with HB 1600, CPAs are likely to understand and recognize the temporal value of exports to the grid and the need to not produce more than can be consumed locally, so NH is likely to get more optimal (economically efficient) DG investment that better matches load and reduce the duck curve ramp rate by advancing HB 1600 now to enable time varying market-based price signals to be recognized by DERs. Additionally, over time there will start to be a loss of municipal/public accounts that are available for Municipal Hosts to add as Group Members. The pressure will grow for additional options. HB 1600 would increase the amount of load that is available to actually be offset, reducing a hurdle to market-based distributed generation development in NH and one that starts to move us away from only having utility default service compensation.

While CPCNH may not be impacted, it will be the Department and the Legislature left dealing with these unresolved issues.

This could be the case if we don't move to more market-based and voluntary structures, as envisioned under HB 1600, as we may very well need to increase regulation and centralized micromanagement rather than allowing communities to set their own market-based terms, conditions, and compensation rates for generation supply from NHCs and be responsible for the consequences of such without shifting costs to non-participants.

Perhaps none of these issues are “fatal” problems to work through, but they do require some additional careful thought. Considering the late legislative hour, we prefer to have them addressed in another legislative session. In addition, even if this bill were effective tomorrow, the issues currently under consideration in DE 23-063 and the question of the reduction of wholesale load obligation both still need to be resolved in order for this to be put into practice.

We agree on that last point and moving this forward now gives added impetus to figuring out those load settlement improvements and gives CPAs, including our member municipalities, many of whom have their own projects in mind, or already own generation in the 1 to 5 MW range, hope that at some point they can use such local generation to offset their community power loads. Absent forward progress on this bill, CPAs are much more likely to lock such projects into long-term Municipal Host arrangements with the generator on utility default service and the group members on CPA supply, potentially with many hundreds of public entity accounts for the utility to give on-bill

credits to, often a manual utility process. As an example, the City of Lebanon alone has some 80 municipal accounts that will likely be signed up as group members if HB 1600 doesn't move forward and we can't plan on our 1 MW base load landfill gas to energy generator serving Lebanon Community Power.

Given this fact, there is no reason to rush this bill. Instead, let's take the time to do that additional thoughtful review.

Or take this opportunity to advance a much more market-based approach to expanding net metering than the status quo and where there is strong bipartisan and bicameral support for HB 1600.

Finally, your views are and have been clearly articulated. The Department believes ours have been, too. We don't, therefore, believe we need to meet on HB 1600.

Again, thanks for sharing your concerns and please reconsider a meeting. We hope that the above answers clarify how HB 1600 can work. Adding a Net Metering option for community scale generation, paid for by those communities that choose to participate, will be good for NH communities. Our 58 members are looking for options to help them realize their renewable energy goals faster.

For reference: RSA 362-A:9, II:

II. Competitive electricity suppliers registered under RSA 374-F:7 and 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. The commission may require appropriate disclosure of such terms, conditions, and prices or credits. **Such output shall be accounted for as a reduction to the customer-generators' electricity supplier's wholesale load obligation for energy supply as a load service entity, net of any applicable line loss adjustments, as approved by the commission.** Nothing in this paragraph shall be construed as limiting or otherwise interfering with the provisions or authority for municipal or county aggregators under RSA 53-E, including, but not limited to, the terms and conditions for net metering.

The relevant proposed Senate Amendment (by CPCNH, 4/16/24) based on DOE letter of 2/16/24 and subsequent feedback from Josh Elliot:

1 New Paragraph; Limited Electrical Energy Producers; Definitions. Amend RSA 362-A:1-a by inserting after paragraph II-f the following new paragraph:

II-g. "Community generator" means a customer-generator with a total peak generating capacity of less than 5 megawatts that uses its excess generation to offset the load of a municipal or county aggregation under RSA 53-E provided that all customers comprising the load being offset are located in the same utility service territory.

2 New Paragraph; Limited Electrical Energy Producers; Net Energy Metering. Amend RSA 362-A:9 by inserting after paragraph XXIII the following new paragraph:

XXIV. When a community generator consents to use its excess generation to generally offset the load of a municipal or county aggregation, and not individual retail customer accounts, it shall be a customer of a municipal or county aggregation and not on utility default service, with accounting and compensation for the energy supply and generation capacity value of its output made pursuant to RSA 362-A:9, II.

Note that the CPA would have the obligation to ensure that the community generator consents to the rate, terms, and conditions being offered by the CPA for such net metering. (The Granite State Hydro Assn. asked for this, so it would not be automatic if they were inadvertently enrolled.) If the CPA did not ensure this there is recourse through RSA 53-E:7, X that the Department has the authority to address.

Sincerely,

Tom Frantz
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From: Clifton Below <Clifton.Below@CommunityPowerNH.gov>

Sent: Tuesday, April 30, 2024 10:30 AM

To: Chicoine, Jared <Jared.S.Chicoine@energy.nh.gov>; EllmsJr, Christopher J <christopher.j.ellmsjr@energy.nh.gov>

Cc: Elliott, Joshua W <joshua.w.elliott@energy.nh.gov>; Frantz, Tom <Thomas.C.Frantz@energy.nh.gov>; Deana Dennis <Deana.Dennis@CommunityPowerNH.gov>; Brian Callnan <brian.callnan@communitypowernh.gov>; Thomas Cormen <thcormen@gmail.com>; Michael Vose <Michael.Vose@leg.state.nh.us>; Jeb Bradley <jebbrad@metrocast.net>; avardsenate@gmail.com; David Watters <watterssenate@gmail.com>; Bill Baber <Bill.Baber@CommunityPowerNH.gov>

Subject: HB 1600

Importance: High

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Dear Commissioner Chicoine and Deputy Commissioner Ellms,

On behalf of the 58 municipalities and counties we represent on this matter I am writing to request a meeting with you and your team that determined the position of DOE circulated yesterday to oppose passage of HB 1600, at your earliest possible convenience.

For the past 8 weeks we have tried to engage with the Department on any concerns you might have about HB 1600. With our support, the House deleted section 2 of the bill as introduced that you and a few private interests indicted they opposed, because it might affect their future profit maximization. We drafted an amendment to conform with your requested changes in your letter to ST&E dated 2/16/24. We have been repeatedly met with excuses that the department hasn't had time to fully consider the bill, even though it is very short and fundamentally simple. It would simply extend the right of Community Power Aggregations to host and serve net metered customer-generators >1 MW and < 5 MW on the same terms as are currently authorized for customer-generators up to 1 MW in size, which is to say, if they are our customer, we would determine the terms, conditions, and amount of compensation paid to them for their surplus energy supply exported to the distribution grid pursuant to RSA 362-A:9, II. As such there would be no utility compensation or cost-shifting related to energy supply compensation, like there is now for all such projects.

By the most recent reports there are more than 60 projects in utility interconnection queues as potential net metered customer-generators larger than 1 MW. Absent this legislation, their only practical option will be to become utility default service customers, potentially adding to undue cost shifting. The Department has repeatedly called for market-based solutions, such as in the NH Energy Strategy. Here, the legislature and DOE are presented with an opportunity to further a market-based solution and expand customer choice, with DOE professing neutrality on the policy up until now, when you suddenly oppose it after its public hearing in the Senate for reasons that remain a mystery to us and the 58 subdivisions of the state that we represent and that want to be able to use locally generated renewable energy to help meet their customer's energy supply needs. What is the problem??

We are available to meet anytime tomorrow before 4 pm, anytime after the PHC in DE 23-039 on Thursday morning and anytime on Friday or next Monday. Thank you for your attention to this matter.

Yours truly,

Clifton Below

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