

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Case No. 20-0203-INV

Investigation into the establishment of)
reduced rates for low-income residential)
ratepayers of Vermont electric utilities)

**DEPARTMENT OF PUBLIC SERVICE RESPONSE TO PUBLIC UTILITY
COMMISSION INFORMATION REQUEST**

The Department of Public Service (“Department”) submits this response to the Public Utility Commission’s (“Commission”) September 28, 2021 Information Request.

1. What are the utilities’ and other stakeholders’ views on creating a statewide funding mechanism to fund low-income bill assistance for all utility customers?

A statewide funding mechanism to fund low-income bill assistance for eligible utility customers is an important tool in advancing equity in the energy space. It is for this reason that a statewide mechanism would theoretically be the preferred option for assisting low-income customers with their utility bills. However, as explained herein, current legal constraints and stakeholder limitations make adoption of a statewide funding mechanism without legislative action challenging.

2. How could such an approach be executed under the current legal framework of 30 V.S.A. § 218(e), which provides that “the Commission . . . may issue an order approving a rate schedule, tariff, agreement, contract, or settlement that provides reduced rates for low-income electric utility consumers”?

As the Department made clear in its June 1, 2021 comments, per the plain language of Section 218(e), the Commission does not have the authority to execute a statewide funding mechanism to fund low-income bill assistance for all utility customers. The Commission itself recognized this limitation in Docket 7535:

...Section 218(e) contains no language authorizing the [Commission] to draw upon the State's general fund or to otherwise order the electric utilities to pool their revenues for purposes of funding a "statewide" low-income rate program. Therefore, we agree with the Hearing Officer's conclusion that Section 218(e) as presently written does not permit the [Commission] to order all Vermont utilities to implement "a single, unified program that makes electricity more affordable for low-income ratepayers.¹

The Hearing Officer's conclusion with which the Commission agreed was more explicit:

...Section 218(e) on its face does not authorize the creation of a statewide, low income rate program that is funded by general state revenues. Rather, the statute expresses a more modest legislative objective, namely, that the [Commission] should exercise its best judgment in approving low-income rate designs that achieve incremental affordability gains on a utility specific basis.²

Should the Commission proceed with creation of a statewide funding mechanism under Section 218(e) as currently written, it risks running afoul of the law and binding precedent. That said, in recognizing the limits of its authority to impose a statewide funding mechanism for low-income utility customers in Docket 7535, the Commission acknowledged what *is* feasible under Section 218(e):

...(1) a legislative amendment to Section 218(e) that would authorize the [Commission] to order a unified funding mechanism to support a statewide, low-income rate program, or (2) an agreement among all of Vermont's electric distribution utilities to cooperate in creating and administering such a mechanism.³

Thus, absent legislative action to impose a statewide funding mechanism, the plain language of Section 218(e) articulates that the Commission has two options: to (1) approve for each Vermont electric utility an individual low-income rate tariff for implementation in their

¹ Investigation into: (1) petition of AARP, for the establishment of reduced rates for low-income consumers of Green Mountain Power Corporation and Central Vermont Public Service Corporation; and (2) as expanded to possibly include general applicability to all Vermont retail electric utilities, Docket 7535, Order of 7/22/2011 at 84.

² *Id.* at 25.

³ *Id.* at 85.

respective service territories; or (2) approve an agreement between distribution utilities to create and administer a statewide funding mechanism.

If implemented for each Vermont utility through ratemaking, a low-income program could serve as the effective equivalent to statewide rate relief for low-income customers. However, stakeholders to this proceeding have expressed reservations regarding a low-income funding mechanism that is specific to each utility, primarily because smaller utilities lack both the requisite customer diversity and administrative resources to ensure the success of such a program.⁴ The Commission recognized these limitations in Docket 7535 when it abstained from directing all the state's utilities to develop alternative low-income rate programs for implementation in their service territories.⁵ Ten years later, it appears that these challenges remain.

Regarding the possibility of an agreement between distribution utilities to create and administer a low-income funding mechanism, the record is currently lacking on the matter. In its June 1, 2021 comments, AARP put forth the general statement that Section 218(e) contemplates an agreement or contract to establish a low-income program, but there has otherwise been no substantive stakeholder engagement on the benefits and challenges of such an approach. Should the Commission decide to explore this option, the Department notes that the success of this endeavor will depend on the willingness of all stakeholders to voluntarily collaborate on crafting an agreement for Commission review and approval. Per statute, the Commission lacks authority to compel such collaboration.⁶

⁴ *See, e.g.*, Comments of Burlington Electric Department, Case No. 20-0203-INV (June 1, 2020) (acknowledging that a statewide low-income program would better avoid potential rate inequities caused by demographic differences between utilities).

⁵ Docket 7535, Order of 7/22/2011 at 84.

⁶ Stakeholders took a similar approach in Docket 5980 with respect to the Energy Efficiency Charge. *See*

3. What alternative ideas, if any, do the utilities have to extend electric bill assistance to low-income customers of all Vermont utilities while also addressing the concerns of some utilities regarding individually funding their own low-income programs because of the high percentage of low-income customers in their service territories?

Although this question was not explicitly posed to stakeholders outside of Vermont utilities, the Department puts forth Attachment A prepared by GDS Associates, Inc. It explains at a high level the various approaches other states have taken in adopting some form of a statewide funding mechanism to fund low-income bill assistance for all utility customers, which could inform the approach taken in this case. In conducting research of state funding mechanisms, GDS arrived at two conclusions: one, that true pooling of funds requires legislative action paired with a type of system benefits charge; and two, that a statewide funding mechanism is possible when implemented on a utility-by-utility basis through the ratemaking process.

Dated at Waterbury, Vermont this 7th day of January, 2022.

VERMONT DEPARTMENT OF PUBLIC SERVICE

By: /s/ Sarah L. J. Aceves

Sarah L. J. Aceves, Special Counsel

O: (802) 828-3167

C: (202) 423-3363

sarah.aceves@vermont.gov

Investigation into the Department of Public Service's proposed Energy Efficiency Plan Re: Phase II, Docket 5980, Order of 11/19/1999. An important distinction in that case was the fact that the Vermont Legislature, in enacting S.317 in 1999, explicitly conferred authority on the Commission to develop and implement the charge within certain constructs, after which time the charge and the Energy Efficiency Utility were established.