

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	
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Order entered: 04/26/2022

**ORDER CLARIFYING THE SCOPE OF THIS PROCEEDING AND
REQUESTING INFORMATION**

I. INTRODUCTION

This proceeding concerns an investigation by the Vermont Public Utility Commission (“Commission”) into the establishment of reduced electric rates for low-income residential ratepayers of Vermont electric utilities. Low-income Vermonters are experiencing disproportionate financial pressure due to ongoing effects of the COVID-19 pandemic and recently rising prices for all commodities. In addition, the Commission expects reliance on electricity to increase over time as the State’s ambitious decarbonization goals push the electrification of the transportation and heating sectors.

Not all low-income electric customers in Vermont have access to a stable, long-term assistance program, as is available to customers of Green Mountain Power Corporation (“GMP”).¹ The pandemic and the Commission’s disconnection moratorium proceedings highlighted the gaps in Vermonters’ ability to afford reliable electric service. Although federal and state funds have helped alleviate bill arrearages for a subset of Vermont’s electric customers facing risk of disconnection, the Commission wishes to further explore creating a long-term low-income assistance program with stable funding for all low-income Vermonters.

Access to a low-income program for all Vermonters would also support the long-term sustainability of the State’s decarbonization policies. The availability of a low-income program for all electric customers is an important step in making the climate transition just and equitable.

¹ Even when low-income programs are offered, not all customers eligible for such programs take advantage of them.

On July 8, 2021, the Commission held a workshop in this proceeding. On September 8, 2021, the Commission requested information related to the creation of a statewide funding mechanism and other methods of extending bill assistance to low-income customers of all Vermont utilities.²

On or before January 7, 2022, a number of utilities, the Department of Public Service (“Department”), and the Vermont chapter of the American Association of Retired People (“AARP”) submitted responses to the Commission’s information request.³

In today’s order, the Commission addresses comments by the participants regarding the scope of the Commission’s authority to require that utilities offer a low-income program. The Commission also requests further information and data so that we can estimate the potential bill impacts of creating access to a low-income program—similar to GMP’s Energy Assistance Program—to extend bill assistance to low-income customers of all Vermont utilities, or alternative pathways for helping low-income households manage their way through clean energy opportunities in the future.

The Commission also requests that stakeholders provide their own estimates and models for the bill impacts of a given program, whether implemented through a statewide approach or on a utility-by-utility basis.

II. COMMISSION’S AUTHORITY TO CREATE A STATEWIDE PROGRAM

In looking at whether all the other Vermont electric utilities should have a low-income program similar to GMP’s, a number of utilities have expressed support for such a program but have raised practical barriers to implementing it. The biggest concern is that some utilities may have too many low-income residential ratepayers who would qualify for reduced rates, potentially causing sharp upward rate pressure for other customers. For instance, VPPSA’s initial comments in this proceeding noted that some VPPSA members have high percentages of low-income residents within their service territories and “have expressed significant concerns

² The Commission also requested information regarding the 2019 GDS Associates, Inc. (“GDS”) evaluation of GMP’s Energy Assistance Program.

³ Comments were submitted by GMP, Vermont Electric Cooperative Inc., the Town of Stowe Electric Department, Washington Electric Cooperative Inc., the Village of Hyde Park Electric Department, the City of Burlington Electric Department, Vermont Public Power Supply Authority (“VPPSA,” on behalf of its members), the Department, and AARP.

about the potential impact of a ratepayer-funded low-income program on non-low-income ratepayers (both residential and commercial customers).”⁴

AARP’s initial comments noted that this concern could be addressed through the creation of a statewide low-income program: “A statewide program could permit smaller utilities—particularly those with a high percentage of low-income customers—to provide some relief for their low-income customers without incurring substantial administrative costs or unduly burdening their higher-income or non-residential customers.”⁵

When we asked the participants in this proceeding about the scope of the Commission’s authority to create a statewide funding mechanism to extend bill assistance to all low-income customers, we received a variety of responses. Many of the electric utilities and other stakeholders expressed support for the general concept of a statewide program that would alleviate energy-related costs for Vermonters. For instance, although the Department has concerns over whether the Commission has the authority to create a statewide funding mechanism, the Department noted that such a program would be “an important tool in advancing equity in the energy space” and “the preferred option for assisting low-income customers with their utility bills.”⁶ Similarly, GMP noted that the Commission, the Department, the utilities, and others should “work collaboratively to ensure that low-income assistance programs are available to all Vermont customers.”⁷ GMP also specifically recommended that the Commission ask the other utilities to model a program based on GMP’s low-income program or a similar concept, to see what level of customer fees would be required to serve each utility’s low-income customer base.⁸

However, the participants offered differing views on the Commission’s statutory authority regarding the creation of a statewide funding mechanism for a low-income program. AARP has contended that the plain language of 30 V.S.A. § 218(e) grants the Commission broad authority to enact a funding mechanism, as long as the Commission accounts for the potential impact on—and cost-shifting to—all utility customers.⁹ The Department, GMP, and other

⁴ VPPSA’s June 1, 2020, Comments at 4.

⁵ AARP’s May 28, 2020, Comments at 4.

⁶ Department’s January 7, 2022, Comments at 1.

⁷ GMP’s January 7, 2022, Comments at 2.

⁸ *Id.* at 3-4.

⁹ AARP’s January 6, 2022, Comments at 4.

utilities, on the other hand, have argued that the Commission does not have the authority to create a statewide funding mechanism.

It is not surprising that several participants claim that the Commission does not have statutory authority to create a statewide funding mechanism, since the Commission reached that conclusion 11 years ago in Docket 7535. In that case, the Commission analyzed 30 V.S.A. § 218(e) and concluded that “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.”¹⁰ The Commission then concluded 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.”¹¹

In today’s Order, we revisit that previous ruling about the Commission’s authority to order the implementation of a single, unified program and reach a different conclusion. We find that the Commission has broad statutory authority to ensure that a low-income program is available for customers of all Vermont electric utilities if we conclude that such a path is warranted. Generally speaking, the Commission has broad statutory authority to require electric utilities to offer a reduced rate to low-income residential customers. Section 218(e) reads:

Notwithstanding any other provisions of this section, the Commission, on its own motion or upon petition of any person, may issue an order approving a rate schedule, tariff, agreement, contract, or settlement that provides reduced rates for low-income electric utility consumers better to assure affordability. As used in this subsection, “low-income electric utility consumer” means a customer who has a household income at or below 185 percent of the current federal poverty level. When considering whether to approve a rate schedule, tariff, agreement, contract, or settlement for low-income electric utility consumers, the Commission shall take into account the potential impact on, and cost-shifting to, other utility customers.¹²

While some of the commenters have argued that the Commission is limited to “*approving* a rate schedule, tariff, agreement, contract, or settlement”—and thus cannot *require* utilities to

¹⁰ Department’s January 7, 2022, Comments at 2 (quoting *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).

¹¹ Docket 7535, Order of 7/22/2011 at 84.

¹² 30 V.S.A. § 218(e).

have such a program—this argument cannot be squared with the statutory language authorizing the Commission to issue an order “on its own motion.”¹³ The Legislature created two distinct pathways for a Commission order “that provides reduced rates for low-income electric utility consumers.”¹⁴ First, “the Commission, on its own motion,” can do this.¹⁵ Second, the Commission may do this “upon petition of any person.”¹⁶ The phrase “or” appears between these two options, which clearly designates that only one “or” the other is required for the Commission to act. If a petition were a prerequisite to Commission action, then the phrase “on its own motion” would be meaningless.¹⁷

Although in today’s Order the Commission finds that it does have jurisdiction to require all utilities to have a low-income program, that is not the only potential pathway to ensuring that all customers have access to affordable energy services. The information requests below will assist the Commission with the broader question of how best to provide access to affordable energy through a utility-by-utility approach, a statewide program, the strengthening of pre-existing assistance programs, rate design, or other alternatives not yet put forth.

III. INFORMATION REQUESTS

The Commission is still considering whether and how to implement a program or programs to ensure that all low-income electric customers have access to some form of bill assistance. To understand the potential bill impacts of creating a statewide approach (or some other alternative), the Commission requests that the utilities provide the following data and information by May 27, 2022. VPPSA may respond on behalf of any of its member utilities, as long as the data are presented on an individual utility level.

1. An estimate of the number of low-income customers (185 percent of federal poverty level) in the utility’s service territory.¹⁸

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ The Vermont Supreme Court has held that it must “construe statutes to avoid rendering one part mere surplusage.” *In re Jenness*, 2008 VT 117, ¶ 24, 185 Vt. 16, 968 A.2d 316.

¹⁸ This could be prepared using geospatial analysis software to clip American Community Survey data or other data on income using a utility service territory layer.

2. The end-of-year customer counts by class (residential, commercial industrial), annual revenues by class, and annual kWh consumption by class, along with totals for the utility from 2017 through 2021.
3. The residential customer charge/daily access charge or equivalent for the utility's general service residential rate.
4. The residential retail energy rate (\$/kWh) (specified by block if that applies).

Commission staff will use these data to prepare a rough estimate of the bill impacts to customers in the following three scenarios:

1. A statewide approach that requires each utility to create its own self-funded program.
2. A program encompassing all utilities except GMP (which already has an Energy Assistance Program).
3. A statewide program that includes all utilities.


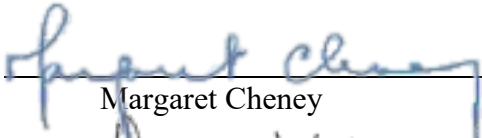
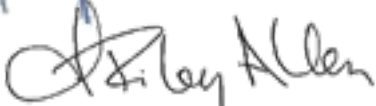
The Commission strongly encourages participants to file their own modeling of these three scenarios or alternative scenarios that provide low-income bill assistance to customers of all Vermont utilities.

IV. ORDER

All electric utilities must file answers to the questions in part III of this Order by no later than May 27, 2022. Any other participants may make filings by that same date.

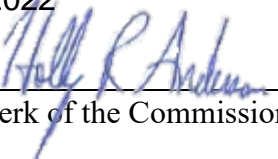
SO ORDERED.

Dated at Montpelier, Vermont, this 26th day of April, 2022.

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_____)	
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Margaret Cheney)	
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OFFICE OF THE CLERK

Filed: April 26, 2022

Attest: 
_____)
Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

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