



TOWN OF DURHAM

8 Newmarket Road

Durham, NH 03824

Tel: 603-868-5571

Fax: 603-868-1858

www.ci.durham.nh.us

NOTICE: Although members of the Town Council will be meeting in the Council chambers, the Council meetings are still available for members of the public to participate via Zoom or in person.

AGENDA

DURHAM TOWN COUNCIL

MONDAY, FEBRUARY 20, 2023

DURHAM TOWN HALL – COUNCIL CHAMBERS

7:00 PM

NOTE: The Town of Durham requires 48 hours notice if special communication aids are needed.

- I. Call to Order**
- II. Town Council grants permission for fewer than a majority of Councilors to participate remotely**
- III. Roll Call of Members.** Those members participating remotely state why it is not reasonably practical for them to attend the meeting in person
- IV. Approval of Agenda**
- V. Special Announcements – None**
- VI. Public Comments (*) – Please state your name and address before speaking**
- VII. Approval of Minutes – Revised November 7 & November 14 minutes, February 6, 2023**
- VIII. Councilor and Town Administrator Roundtable**
- VIX. Report from the UNH Student Senate External Affairs Chair or Designee**
- X. Unanimous Consent Agenda** (*Requires unanimous approval. Individual items may be removed by any councilor for separate discussion and vote*)
 - A. Shall the Town Council Approve an Amendment to the previously adopted Durham Community Power Electric Aggregation Plan?**

- B. Shall the Town Council, Upon Recommendation of the Administrator, Award a Contract for the 2023 Stormwater Asset Management Grant Project to Environmental Partners Group of Quincy, MA in the Amount of \$65,400 and Authorize the Town Administrator to Sign Associated Documents?
- C. Shall the Town Council, upon recommendation of the Administrator, award the bid and authorize the purchase of a 2023 GMC Yukon AT4 XL in the amount of \$72,754, with vehicle trade-in of \$12,000 at the time of delivery, for a total price of \$60,754 to be paid from Capital Fund account # 07-2202-701-36-000 and authorizes the Administrator to sign all associated documents?

XI. Committee Appointments – None

XII. Presentation Items

- A. End of Year Financial Report through December 31, 2022 – Gail Jablonski, Business Manager

XIII. Unfinished Business

- A. **Public Hearing and Action on Ordinance #2023-02** Amending Chapter 132 “Tax Exemptions and Credits”, Section 132-5 Veterans’ Tax Credit” of the Durham Town Code Re-Adopting the Optional Veterans’ Tax Credit in the Amount of \$500.00.

XIV. New Business

XV. Nonpublic Session (if required)

XVI. Extended Councilor and Town Administrator Roundtable (if required)

XVII. Adjourn (NLT 10:30 PM)

(*) *The public comment portion of the Council meeting is to allow members of the public to address matters of public concern regarding town government for up to 5 minutes. Obscene, violent, disruptive, disorderly comments, or those likely to induce violence, disruption or disorder are not permitted and will not be tolerated. Complaints regarding Town staff should be directed to the Administrator.*



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AGENDA ITEM: **# 7 TS**
DATE: **February 20, 2023**

COUNCIL COMMUNICATION

INITIATED BY: Durham Town Council

AGENDA ITEM: APPROVE THE TOWN COUNCIL REVISED MEETING MINUTES FOR NOVEMBER 7, 2022, NOVEMBER 14, 2022 AND THE NEW MEETING MINUTES FOR FEBRUARY 6, 2023

CC PREPARED BY: Karen Edwards, Administrative Assistant

PRESENTED BY: Todd I. Selig, Administrator

AGENDA DESCRIPTION:

Attached for the Council's review and approval are the revised minutes for the Town Council meetings held on November 7, 2022, November 14, 2022 and the new minutes for the meeting held on February 6, 2023. The minutes of November 7 and 14 were on the agenda for the February 6 meeting. However, they needed to be reviewed and corrected due to many errors. The review has now been done.

Please call or email Karen Edwards with any grammatical/spelling changes prior to the meeting. Discussion at Monday evening's meeting should be limited only to substantive changes.

LEGAL AUTHORITY:

RSA 91-A:2 (II) specifies what must be contained in minutes of public meetings:

"Minutes of all such meetings, including names of members, persons appearing before the bodies or agencies, and a brief description of the subject matter discussed and final decisions, shall be promptly recorded and open to public inspection not more than 5 business days after the public meeting, except as provided in RSA 91-A:6, and shall be treated as permanent records of anybody or agency, or any subordinate body thereof, without exception."

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby approve the Town Council meeting minutes for November 7, 2022, November 14, 2022 and February 6, 2023 (as presented/as amended).



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AGENDA ITEM **# 10A** *TS*

DATE February 20, 2023

COUNCIL COMMUNICATION

INITIATED BY:

Steve Holmgren
Jim Lawson, Councilor

AGENDA ITEM:

SHALL THE TOWN COUNCIL APPROVE AN AMENDMENT TO THE PREVIOUSLY ADOPTED DURHAM COMMUNITY POWER ELECTRIC AGGREGATION PLAN?

CC PREPARED BY:

Jim Lawson, Councilor

PRESENTED BY:

Steve Holmgren and Todd Selig, Administrator

AGENDA DESCRIPTION:

Consideration and action on the Durham Energy Aggregation Plan (EAP)

BACKGROUND

The Town Council at its September 27, 2021, meeting unanimously authorized the Administrator to sign a Joint Powers Agreement and join the Community Power Coalition of New Hampshire (CPC-NH). By doing so, Durham joined other New Hampshire towns and cities in the effort to develop and implement Community Power Aggregation. The council also appointed a representative and alternate to the CPC-NH Board of Directors, which is currently held by Mandy Merrill and Nat Balch, respectively.

Today, CPC-NH has twenty-seven member towns and cities that represent 21% of the state's population. It has been meeting its objectives for members to:

1. Streamline the process for authorizing a Community Power Program locally.
2. Share services and staff support across member cities, towns and counties.
3. Participate in joint power solicitations and local project development opportunities.
4. Share knowledge and collaborate regionally on clean energy and resilient infrastructure development.
5. Speak with one voice at the Legislature and Public Utilities Commission on public advocacy issues related to energy and Community Power.

On October 3, 2022 the Town Council approved Durham's Electric Aggregation Plan to enable our town's participation in the Community Power Coalition of NH (CPCNH) program to bring lower cost and greener power to our citizens. As the CPCNH has continued to finalize their policies and agreements on cost sharing, rate setting, and reserves, three changes have been made to the previous standard versions of the Electric Aggregation Plans (EAPs) adopted by the Wave 1 communities. **Those changes are:**

1. For communities that are served by New Hampshire Electric Cooperative (NHEC), edits allowing that NH Electric Cooperative customers will be enrolled on an "opt-in" basis, instead of the default opt-out basis for Eversource or the other default utilities. This is because NHEC customers already enjoy most of the rate benefits expected for CPCNH, and therefore are not expected to find advantage for moving to CPCNH.
2. To protect Net Metering customers, language has been added that in the event utilities do not comply in a timely manner with Public Utility Commission (PUC) 2200 rules to reliably provide Durham Community Power with the data on customer-generators necessary to offer Net Energy Metering (NEM) rates and terms, then Durham Community Power may choose to initially **not** enroll customer-generators on the default opt-out basis, as doing so could risk negatively impacting NEM customer billing and crediting procedures.
3. Language has been added that clearly aligns the EAPs with the Coalition's Cost Sharing Agreement, Member Services Contract, Data Security and Privacy Policy, and the Risk Management, Rates, and Reserves policies approved by the Coalition's Board of Directors.

A revised version of Durham's EAP with red-line markings of the changes has been attached for review. It is the recommendation of the Durham Energy Committee that this revised document be approved, which will allow Durham to continue in the process as a possible Wave 1 community for the rollout of Durham Community Power via CPCNH. Two additional notes:

1. This revised EAP does not have to be re-submitted to the PUC.

2. The approval of the CPCNH policies and agreements listed in #3 above are a separate task that will be brought before the Council after further review by the Durham Energy Committee (DEC), Town Council members, and Town Counsel.

LEGAL AUTHORITY:

RSA 53E and PUC administrative rules detailed in the EAP

LEGAL OPINION: n/a

FINANCIAL DETAILS:

None at this time.

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby approve an amendment to the previously adopted Durham Community Power Electric Aggregation Plan (as presented/as amended).

Durham Community Power
Electric Aggregation Plan
Version 2.0



Approved by the Durham Town Council
February 20, 2023 ~~October 3, 2022~~

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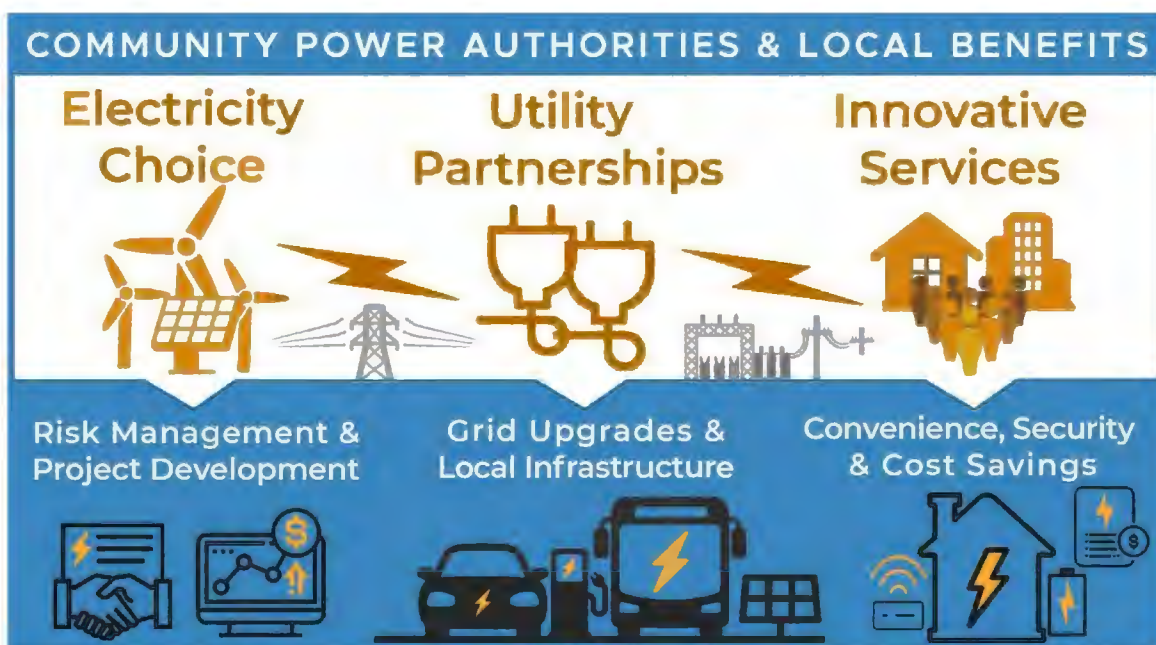
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INTRODUCTION TO COMMUNITY POWER

New Hampshire's updated Community Power law (RSA 53-E, as amended by SB 286 - Chapter 316, NH Laws of 2019, effective October 1, 2019, and HB 315, Chapter 229, NH Laws of 2021, effective October 24, 2021) is a bipartisan policy designed to further democratize, evolve, and enhance the economic efficiency of our electric power industry. The Legislature's intent in enacting RSA 53-E was to *"encourage voluntary, cost effective and innovative solutions to local needs with careful consideration of local conditions and opportunities."* To achieve this goal, RSA 53-E authorizes local governments (cities, towns, and counties) to launch Community Power programs that:

- Provide electricity supply service to residents and businesses, who are notified and enrolled on an "opt-in" customer choice or "opt-out" default service basis — and may thereafter leave or rejoin the program by switching suppliers (in advance of their next billing cycle date);
- Procure a reliable supply of "all-requirements" electricity, inclusive of Renewable Portfolio Standard requirements, with the option to participate directly in the ISO New England wholesale market as a load-serving entity on behalf of participating customers;
- Offer a range of innovative services, products, new Net Energy Metering supply rates, and local programs to participating customers;
- Establish a joint powers agency with other Community Power programs to share services, contract for energy project developments, and facilitate related energy initiatives; and
- Work collaboratively with distribution utilities, regulators, policymakers and innovative energy businesses to help modernize our electrical grid and market infrastructure.

These authorities and local benefits are depicted in the graphic below:



Distribution utilities will continue to deliver power to all customers, regardless of whether they are supplied electricity by new Community Power programs or Competitive Electric Power Suppliers (or have chosen to switch back to utility-provided default service).

OVERVIEW OF ~~Durham~~ DURHAM COMMUNITY POWER

Durham Community Power is a program authorized under RSA 53-E to provide electricity supply service for the Town's residents, businesses, and other types of customers. The program will only launch if it is able to initially offer residential default rates that are lower than or competitive with those offered by Eversource ~~and NH Electric Cooperative~~. Thereafter, the program will:

- Serve as the default electricity supplier for all customers on a default "opt-out" basis, except that customers served by New Hampshire Electric Cooperative will be offered service on an "opt-in" basis;
- Offer innovative services and generation rates to customers on an "opt-in" or "opt-up" basis (such as 100% renewable premium products, time-varying rates and Net Energy Metering generation credits for customers with solar photovoltaics);
- Operate on a competitive basis, in that customers may choose to switch between Durham Community Power, service provided by Competitive Electric Power Suppliers, and utility-provided default service; and
- Be self-funded through revenues generated by participating customers (the Town will not use taxes to cover program expenses).

Eversource and NH Electric Cooperative will continue to own and operate the distribution grid and be responsible for delivering power to all customers within the Town. Customers will be charged for utility delivery services at rates set by the Public Utilities Commission.

The Town Council, in coordination with advisory support from the Durham Energy Committee, will be authorized to arrange and contract for the necessary services and power supplies to implement and operate the program, ~~set customer rates prior to program launch~~ and continue to provide oversight over the program thereafter.

Customer Notification and Enrollment Process

Prior to launch of Durham Community Power, all eligible customers will be mailed notifications and provided the opportunity to "opt-out" or "opt-in" to the program, depending on whether they currently take service from a Competitive Electric Power Supplier or are on default service provided by Eversource or NH Electric Cooperative:

- Customers already served by Competitive Electric Power Suppliers or New Hampshire Electric Cooperative will be notified and may request to "opt-in" to the program; and
- Customers currently on default service provided by Eversource ~~or NH Electric Cooperative~~ will be notified, provided the opportunity to decline participation, and thereafter transferred to Durham Community Power if they do not "opt-out".

Notifications to customers on utility-provided default service will include the initial fixed rate for the program's default service compared with the Eversource or NH Electric Cooperative rate, be mailed to customers at least 30 days in advance of program launch and provide instructions for customers to decline participation (for example, by return postcard, calling a phone number or using a web portal).

After the launch of Durham Community Power, any new customers that move to the ~~Town of~~ Durham and are served by Eversource will be transferred onto default service provided by the

program, unless they choose to take service from Eversource ~~or NH Electric Cooperative or~~ a Competitive Electric Power Supplier.

Customers served by the NH Electric Cooperative may elect to opt-in to Durham Community Power, but will otherwise remain unaffected by the program. NH Electric Cooperative is a not-for-profit, owned by its customer-members, and governed according to its own bylaws and processes. As such, NH Electric Cooperative is not rate-regulated by the New Hampshire Public Utilities Commission the same way Eversource, as an investor-owned utility, is. For this reason, NH Electric Cooperative customers typically enjoy energy supply rate savings relative to New Hampshire's investor-owned utilities. Upon launch of Durham Community Power, NH Electric Cooperative will continue to serve as the default electricity supplier for its customers and those customers may elect to enroll in Durham Community Power.

All customers on Durham Community Power default service will remain free to switch back to ~~the~~ Eversource or NH Electric Cooperative or to take service from a Competitive Electric Power Supplier.

Customer Accounts and Electricity Usage Estimates

The tables below show the total number and annual electricity usage of customers within Durham's territory who would initially receive either "opt-out" or "opt-in" notifications:

	<u>Utility Default Supply Customers</u>		<u>Competitive Supply Customers</u>	
	(Eligible for Opt-Out Notifications & Automatic Enrollment)		(Eligible for Opt-In Notifications & Voluntary Enrollment)	
	Customer Accounts	Annual Usage (MWh)	Customer Accounts	Annual Usage (MWh)
Residential	3168	22,131	467	4,303
Commercial	441	12,414	138	11,244
Industrial	2	3.9	2	123
ST Lighting	5	5.9	2	1.7
Total	3616	43,554.8	609	15,671.7

Aggregated data shown was provided by Eversource for the 12 months ending November 2021. (The number of NH Electric Cooperative customers in Durham is too small to allow sharing of usage data due to privacy regulations.)

Membership in the Community Power Coalition of New Hampshire

Durham is a founding member of the Community Power Coalition of New Hampshire ("the Coalition"), a joint powers agency authorized under RSA 53-A ("Agreements Between Governments: Joint Exercise of Powers") that will operate on a not-for-profit basis.

The Coalition was created so that towns, cities, and counties across New Hampshire could:

1. Access the resources and support required to streamline the process of establishing an Electric Aggregation Committee, drafting an Electric Aggregation Plan and approving a new Community Power program.
2. Jointly solicit and contract for third-party services and staff support to launch and operate Community Power programs, without requiring any upfront costs or imposing any financial liabilities on participating communities.
3. Participate in joint power solicitations and local project development opportunities.
4. Share knowledge and collaborate regionally on clean energy and resilient infrastructure development at the community-level throughout the state.
5. Speak with one voice at the Legislature and Public Utilities Commission on public advocacy issues related to energy and Community Power.

The Coalition's joint powers agency governance model and competitive business model have been designed in accordance with energy industry best practices to ensure that participating Community Power programs benefit from transparent governance and high-quality services —so that all communities are able to take full advantage of their local control authorities under RSA 53-E and achieve the full scope of their local energy policy goals.

The Coalition will be governed “*for communities, by communities*” under a voluntary and flexible membership structure, will provide competitive electricity service on a statewide basis, and will strengthen the ability of communities to coordinate effectively on public advocacy issues.



Key aspects of the Coalition's design, governance, services and start-up process are summarized in:

- The appendix ([Attachment 2](#)) which provides an overview of the communities, volunteers and experts involved in the process of designing the power agency.
- The chapter “[Overview of the Community Power Coalition of New Hampshire](#)”, which provides context regarding the purpose of joint action power agencies, highlights the importance of joint public advocacy (and summarizes the Coalition's successful engagements at the Legislature and Public Utilities Commission on Community Power and public advocacy issues to-date), and summarizes key features of the Coalition's business model and services.

- The chapter “[Durham Community Power Goals, Objectives and Requirements](#)”, which explains how the Coalition’s joint action governance and business model should enable Durham to achieve the full scope of our policy goals, delineates what our goals are over the short-to-long term, and summarizes the program’s near-term operational requirements as a power enterprise.
- The remainder of this chapter, which summarizes the Town’s anticipated role in the Coalition’s governance and implementation process through the launch of Durham Community Power.

Purpose of this Electric Aggregation Plan

The Durham Energy Committee was tasked by the Town Council to prepare this Electric Aggregation Plan, which sets forth Durham’s policy goals for our Community Power program, summarizes program governance and implementation processes, and commits Durham Community Power to comply with applicable statutes and regulations in terms of:

- Providing 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
- Meeting, at a minimum, the basic environmental and service standards established by the Public Utilities Commission and other applicable agencies and laws and rules concerning the provision of service under Community Power.

This plan does not otherwise commit Durham to any defined course of action, including participation in the Coalition for the purposes of launching the program, and does not impose any financial commitment on the Town.

The Town Council retains the power to contract for all required program services and electricity supplies, to set rates, and to pursue related projects independently of the Coalition.

Approval Process for Durham Community Power

This Electric Aggregation Plan was developed by the Durham Energy Committee with due input from the public, as required under RSA 53-E. Public hearings were held on June 15 and July 6, 2022. Refer to [Attachment 7](#) for additional information.

The Durham Energy Committee has determined that this Electric Aggregation Plan satisfies applicable statutory requirements and is in the best, long-term interest of the Town and its residents, businesses, and other ratepayers.

Adoption of this Plan by the Town Council, by majority approval of those present and voting, establishes Durham Community Power as an approved aggregation with statutory authorities defined under RSA 53-E:3 (to be exercised with due oversight and local governance, as described herein), and authorizes the Town Council to arrange and contract for the necessary professional services and power supplies to launch Durham Community Power.

Implementation Process for the Coalition & Durham Community Power

The Town became a founding member of the Coalition on September 27, 2021 when the Town Council approved entering into the Coalition’s Joint Powers Agreement.

The Coalition's Joint Powers Agreement includes the Articles of Agreement and Bylaws of the nonprofit. It establishes the general purpose, authorities, structure, Board of Directors, committees, cost-sharing principles, liability protections, and other aspects of the organization.

The Coalition was incorporated on October 1, 2021 by the following founding local government Members: the cities of Lebanon, Nashua and Dover; the towns of Hanover, Harrisville, Exeter, Rye, Warner, Walpole, Plainfield, Newmarket, Enfield and Durham; and Cheshire County.

This plan assumes, but does not require, the Town to participate fully in the Coalition for the purposes of implementing and operating Durham Community Power.

Town Participation in Joint Powers Agency Governance

The Coalition's initial Board of Directors is constituted of representatives appointed by the governing bodies of each founding member.

The Town Council has appointed primary and alternate representatives of Durham Community Power to serve on the Coalition's Board of Directors. The Town's representatives will directly oversee the Coalition's initial startup and implementation activities, including the:

- Adoption of Board policies and the election of officers;
- Hiring of expert staff to provide qualified management and oversight;
- Solicitation and contracting of third-party service vendors to launch and operate Community Power programs; and
- Appointment of Board members and other community representatives to committees.

Durham and all other members will be directly represented on the Coalition's Board until more than twenty-one (21) members join, at which point directors will be elected by vote of the members' representatives at annual meetings (with a Board size of between 11 and 21 representatives, at the members' direction).

Additionally, to exercise more regular oversight over specific aspects of the joint powers agency, the Coalition will have six standing committees: Executive, Finance, Audit, Regulatory and Legislative Affairs, Risk Management and Governance. The Board may also establish ad-hoc committees, and each direct project that members choose to pursue in the future will be overseen by a committee specific to that project.

All meetings of the Coalition will comply with New Hampshire's Right-to-Know Law (RSA 91-A), the purpose of which is to *"ensure both the greatest possible public access to the actions, discussions and records of all public bodies, and their accountability to the people"*, based on the recognition that *"openness in the conduct of public business is essential to a democratic society."*

Development of Member Cost Sharing Agreement and Services for Durham Community Power

Under the terms of New Hampshire's Community Power law ([RSA 53-E](#)):

- Community Power programs must be self-funded, with ongoing costs paid for using the revenues generated by participating customers.
- Municipalities are only allowed to incur incidental costs associated with implementing Community Power programs, such as the costs necessary to comply with the Community Power law, up to the time that the program starts to produce revenue from participating customers.

Membership in the Coalition, and the implementation of Durham Community Power, will not require any upfront cost for the Town other than such incidental expenses (i.e., the staff time, counsel review of agreements, and other costs required to comply with the Community Power law).

To provide the services, credit support and electricity supply required to launch and operate Durham Community Power:

- The Coalition will administer competitive solicitations on behalf of all participating Community Power programs to contract with qualified vendors and credit-worthy suppliers.
- Vendors are expected to fund and self-manage the upfront cost of launching Community Power programs, under at-risk and performance-based contract structures with payments contingent upon successful launch.
- Program implementation costs for Durham, along with ongoing operational and power procurement expenses, will be factored into the customer rates adopted by the Town Council and be recovered from the revenues received from participating customers after the launch of Durham Community Power.

Similar solicitations and at-risk, performance-based contract structures have been used to successfully launch and operate new joint powers agencies in other Community Power markets.

Durham's representatives on the Coalition's Board of Directors are participating in the solicitation of services, agency startup activities and the development of a cost-sharing agreement with other founding members.

The Coalition's Joint Powers Agreement provides certain requirements regarding how costs will be tracked and shared across participating Community Power programs, which will guide the development of the Coalition cost-sharing agreement:

- Costs will be tracked in three distinct categories: direct project costs, member services, and general and administrative costs (which are overhead costs that are not associated with any specific project or member service);
- Member cost-sharing agreements will be the same in all material respects: general and administrative costs will be allocated based on each Community Power program's share of total electricity usage each year, while each member will choose and separately pay for the costs of specific services and projects (under terms that reflect a fair allocation across all the members that chose the same services and projects); and
- The debts, liabilities and obligations of the Coalition, and of other participating Community Power programs, will be non-recourse to Durham (unless expressly agreed to by the Town Council under Durham's Cost Sharing Agreement or a Project Contract).

To proceed with launching and operating Durham Community Power through the Coalition:

- The Town Council would review and approve execution of the Coalition's Cost Sharing Agreement and Member Services Contract, along with the Data Security and Privacy Policy and the Energy Portfolio Risk Management, Retail Rates, and Financial Reserves policies approved by the Coalition's Board of Directors.
- The Coalition would provide the services and credit support necessary to launch and operate Durham Community Power (along with the programs of other municipalities across the state)

and would provide all-requirements electricity to customers participating in the programs.

- Confidential customer data would be handled in accordance with the Data Security and Privacy Policy.
- Power procurement and energy portfolio risk management, rate setting, and the accrual of financial reserves for the program would be carried out in accordance with the Coalition's Energy Portfolio Risk Management, Retail Rates, and Financial Reserves policies.
- The Coalition would collect revenues from program customers on the Town's behalf and would recover expenses incurred on behalf of Durham Community Power in accordance with the Cost Sharing Agreement.
- Governance of the power agency would be carried out pursuant to the Coalition's Joint Powers Agreement. The Board of Directors and committees of Member Representatives — the Executive Committee, Finance Committee, Risk Management Committee, Member Operations and Engagement Committee, Regulatory and Legislative Affairs Committee, etc. — would continue to meet regularly and carry out their responsibilities to provide oversight and direction, supported by a qualified CEO and staff experts hired to provide day-to-day oversight and management the agency's service providers, operations, planning, and program development activities.

The Coalition intends to contract for all the services required to launch and operate member Community Power programs, which is expected to enable access to advanced services and expertise at least cost for Durham Community Power. However, note that:

- The Town will be under no obligation to rely on the services provided through the Coalition until the Town Council executes the Coalition's cost-sharing agreement and chooses which services will be provided through the Coalition.
- At that time, the Town Council may decide to rely on the Coalition for all or a subset of the services required to launch and operate Durham Community Power.
- Alternatively, the Town Council could decide to withdraw from the Coalition entirely, prior to the point at which power procurement is authorized on behalf of Durham Community Power, and launch Durham Community Power independently without any cost or continuing financial obligations to the Coalition.
- ~~Alternatively, the Town Council could decide to withdraw from the Coalition entirely, prior to executing the cost-sharing agreement, and launch Durham Community Power independently.~~
- Lastly, after Durham Community Power launches, the Town could still decide to procure certain services independently or to withdraw from the Coalition at a future date, subject to the terms, conditions and any continuing obligations specified in the cost-sharing agreement approved by the Town Council.

Decisions made by the Town Council regarding how to best implement and operate Durham Community Power, including the execution of the Coalition cost-sharing agreement and selection of services provided through the Coalition, will be made at duly noticed public meetings.

Coalition Engagement on Rule Making at the Public Utility Commission

Durham Community Power will launch after administrative rules governing Community Power are adopted by the Public Utilities Commission. Rules are expected to require submission of Durham's Electric Aggregation Plan to the Commission in order to:

- Provide formal notice that the Town is planning to launch a Community Power program;
- Authorize the Town to request access to additional customer data from Eversource and NH Electric Cooperative that will be needed for the implementation and administration of Durham Community Power.

Over the course of 2020-2022, members of the Coalition have actively participated in the informal rule drafting process by providing initial and subsequent sets of draft rules for review and refinement, arranging and facilitating bilateral meetings with utilities and other stakeholders, and leading stakeholder workshop discussions and editing sessions at the request of Public Utilities Commission staff.

On December 1, 2021, the Coalition submitted a petition for rulemaking to implement RSA 53-E for Community Power Aggregations, which was filed on behalf of the Coalition's Members and other stakeholders that had been invited to join the petition. The Commission approved the petition in Docket [DE 21-142](#) and issued an Initial Proposal on February 3, 2022, putting forward the Coalition's recommended rules for public review and comment. Durham Community Power and the Coalition actively participated in the review and public comment process proceeding the Commission's July 27, 2022 issuance of a Final Proposal for CPA Administrative Rules which was approved by the Joint Legislative Committee on Administrative Rules on September 16, 2022. Durham Community Power will continue to coordinate with the Coalition to engage in relevant legislative and regulatory processes.

Coalition & Durham Community Power Implementation Milestone Charts

The milestone charts below show the anticipated approval, formation and launch processes for Durham Community Power and the Coalition power agency, as described in the sections above.

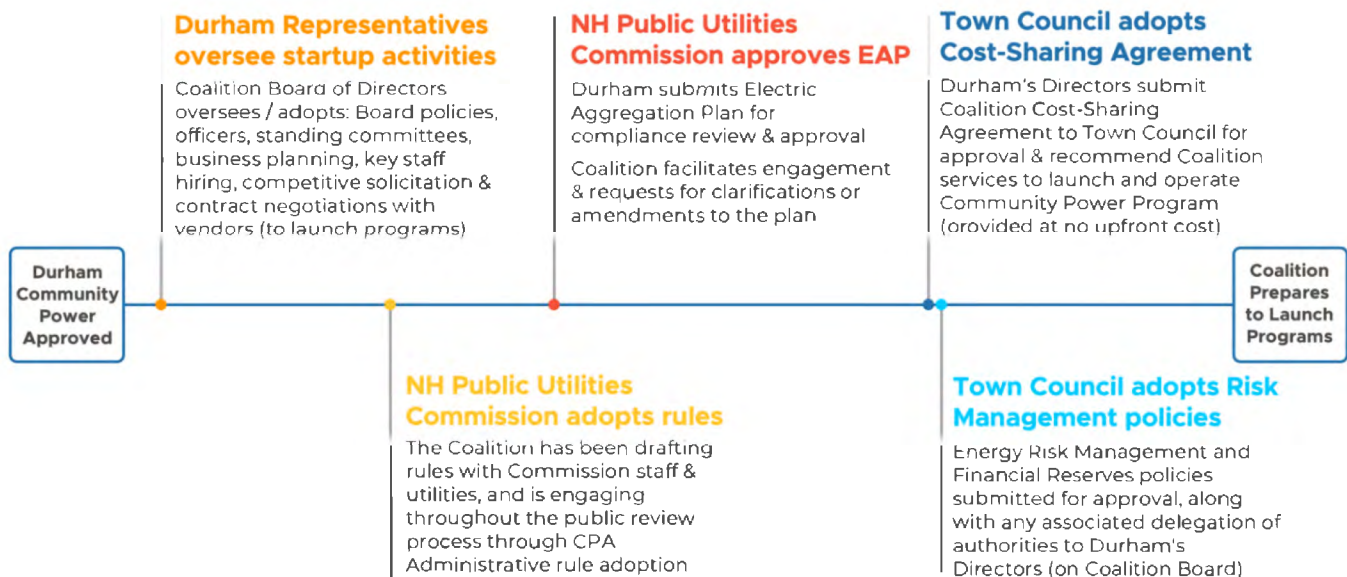
The first chart below summarizes the different categories of activities required to approve Durham Community Power and join the Coalition as a founding member to create the joint powers agency:

Approval Process for Coalition Agency & Durham Community Power



Durham's directors on the Coalition Board are overseeing startup activities, including engagement at the Public Utilities Commission to finalize the administrative rules governing the Community Power market, and will bring forward the Coalition's cost-sharing agreement along with an Energy Risk Management and Financial Reserve policies for approval by the Town Council:

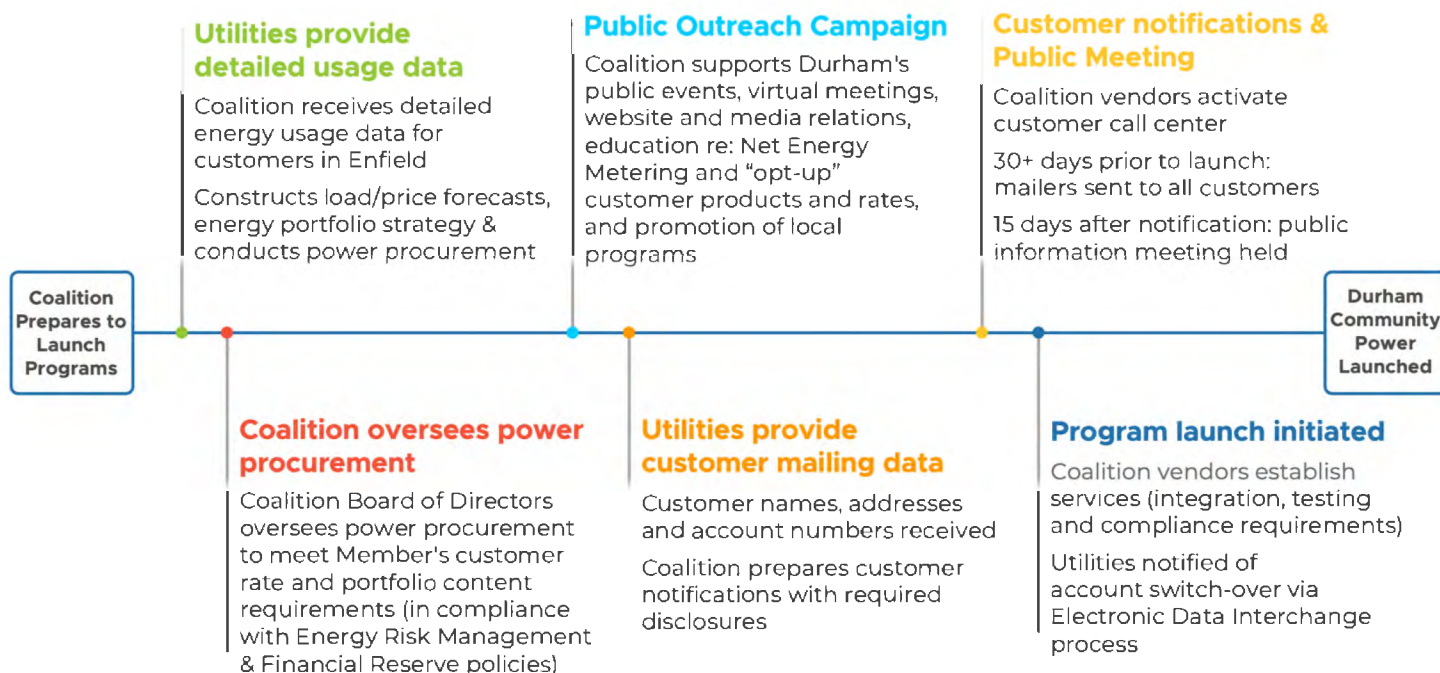
Coalition Startup, Rule Making and Risk Management Policy Approval Process



After the Public Utility Commission adopts rules and opens the market, the Coalition will be allowed to launch Durham Community Power (and the programs of other participating municipalities). The milestones below summarize the process by which the Coalition will structure and conduct data collection, forecasting, power procurement solicitations and rate setting exercises — in compliance with the Energy Risk Management and Financial Reserve policies adopted by the Town, and with oversight provided by Durham's representatives on the Coalition's Board of Directors — and the

local outreach, customer notification mailings and public meeting process that culminates in the launch of Durham Community Power:

Durham Community Power Launch Process



**COMMUNITY
POWER COALITION
OF NEW HAMPSHIRE**
For communities, by communities.

OVERVIEW OF THE COMMUNITY POWER COALITION OF NEW HAMPSHIRE

Durham is a founding member of the Community Power Coalition of New Hampshire, a nonprofit joint powers agency authorized under RSA 53-A.

Joint powers agencies are governed by communities, operated on a not-for-profit basis and allow Community Power programs to voluntarily join forces to take advantage of economies of scale and shared services to boost operational efficiencies.

The public power industry has created over seventy joint powers agencies in the last fifty years, and several hundred local governments operate Community Power programs through joint powers agencies or comparable collaborative governance structures in Massachusetts, New York, Ohio, Illinois and California.

The experience of these markets demonstrates that the economics of joint purchasing can enable access to advanced services and expertise for participating Community Power programs, which helps keep power rates competitive and supports long-term financial stability.

The Coalition was incorporated on October 1, 2021 by the following founding local government Members: the cities of Lebanon, Nashua and Dover; the towns of Hanover, Harrisville, Exeter, Rye, Warner, Walpole, Plainfield, Newmarket, Enfield and Durham; and Cheshire County. Following incorporation, the city of Portsmouth and the towns of Hudson, New London, Pembroke, Peterborough, and Webster joined the Coalition's membership.

The 19 city and town members of the Coalition represent more than 270,000 residents, or ~20% of the population of New Hampshire. To put the anticipated electricity usage of all Coalition Members Community Power programs in context, at full enrollment of all eligible customers, the Coalition would be larger in size than the default service loads of Unitil, Liberty Utilities, and the New Hampshire Electric Coop on an individual basis, and smaller than Eversource (New Hampshire's largest investor-owned distribution utility).

Durham anticipates relying upon the Coalition's member services to launch and operate Durham Community Power, but approval of this plan does not commit the Town to doing so. The Town Council retains the authority to contract for any and all required program services and electricity supplies, and to pursue projects independently of the Coalition.

Based on the design and projected size of the Coalition, the Electric Aggregation Committee anticipates that participation will result in cost savings, lower staff requirements and enhanced quality of services for Durham Community Power and other member programs.

Operating Durham Community Power through the Coalition is expected to provide a number of distinct benefits in terms of transparency, scope and cost of services, regulatory and policy engagement, local program options, quality of energy risk management advice, the accrual of financial reserves sufficient to ensure long-term financial stability, and opportunities to develop new energy projects. These benefits are summarized in the "Regulatory and Policy Advocacy" and "Coalition Member Services" sections below.

Regulatory and Policy Advocacy

Changes in law and regulations that adversely impact Community Power programs will be a non-trivial source of risk for Durham Community Power.

Additionally, extending and maintaining the full range of benefits that Durham Community Power could create for customers will require informed participation and advocacy on energy issues at the Legislature and Public Utilities Commission.

Coordination with other municipalities and Community Power initiatives on matters of common interest through the Coalition have already produced meaningful results in these areas. For example, over the last year, the communities involved in the formation of the Coalition have:

- Participated in the Community Power informal rule drafting process, including by providing the initial and subsequent draft rules for discussion, arranging bilateral meetings with utilities and other stakeholders, and leading significant portions of the subsequent stakeholder workshops at the request of Public Utilities Commission staff.
- Intervened in regulatory proceedings to represent the interests of customers and Community Power programs, such as by advocating for expanded data access in the Commission's Statewide Data Platform docket (DE 19-197), under which a settlement agreement with the utilities was negotiated and recently submitted to the Public Utilities Commission. (If adopted, the settlement would create a "Statewide Data Platform" to enable data access for customers

and Community Power programs, which would be overseen by a Governance Council that includes Coalition representatives.)

- Testified in legislative hearings — and organized hundreds of people, elected officials and civic organizations to register in support of the Coalition’s position on key legislation — in order to successfully negotiate critical amendments to two bills recently signed into law:
 - House Bill 315, which clarifies and expands key Community Power authorities; and
 - Senate Bill 91, which expands battery storage options for customers as well as Net Energy Metering for communities and established a committee to study the creation of a new market that would expand the ability of Community Power programs to buy from in-state generators and battery storage projects (under 5 megawatts in size).

Durham Community Power will continue and expand on these activities through the Coalition.

Coalition Member Services

The Coalition’s business model has been designed to provide Community Power programs with:

- **Innovative local programs and customer services:** new rates, technologies and services for customers that lower electricity supply costs and risk for the program in aggregate, along with the electricity bills of participating customers from a “full bill” perspective (i.e., inclusive of transmission and distribution charges).
- **Energy Risk Management & Financial Reserve Policies, Procedures and Practices:** expert guidance on energy risk management, procurement of a diversified portfolio of energy contracts, rate setting, and financial reserves — sufficient to ensure the stability and operational continuity of Community Power programs over the long-term (as technologies, market dynamics, risk factors, consumer preferences and energy policies continue to evolve).
- **Development of Renewable and Battery Storage Projects:** joint contracting opportunities for the construction of new renewable and battery storage projects financed under long-term contracts — to diversify program energy portfolios, provide a physical hedge against wholesale market price fluctuations, enhance the resiliency of our electrical grid, and stimulate local construction and economic development.

The Coalition intends to contract with qualified vendors and credit-worthy suppliers to provide the services, credit support and electricity required to launch and operate Community Power programs. These third parties are expected to fund the upfront cost of implementing Community Power programs, the expense of which would be amortized and recovered for a specified term, along with ongoing operating costs, in customer rates.

The extent of services offered by the Coalition is expected to thereafter expand over time, in response to new market opportunities and ongoing regulatory rule reforms, and to meet the local objectives of participating Community Power programs. The Coalition also plans to hire a small number of qualified staff to ensure effective oversight of operations, as well as enhanced transparency and expert management as the Coalition’s business operations evolve.

The proceeding sections explain how the above categories of member services are interrelated in ways that combine to ensure Durham Community Power remains operationally stable, competitive and able to achieve the full range of our local policy goals over the long-term.

Innovative Local Programs & Customer Services

Cost-effective local programs provide new retail products and services that enable customers to:

- Intelligently moderate their use of electricity from the grid during times of high wholesale power prices and when the physical grid is constrained (at-risk of not being able to deliver enough power to meet all customers' usage requirements during the hours of "peak demand");
- Increase their use of electricity from the grid when wholesale prices are relatively low and the physical grid is not constrained.

Examples of innovative retail products and services that enable customers to do so include time-based rate options, individual and group net metering, targeted efficiency, distributed generation and energy storage programs, electric vehicle charging rates, and other offerings that empower customers directly and enable the services of third-party energy companies that are helping customers adopt and use new technologies.

Programs that enable the intelligent use of electricity will help Durham Community Power to:

- Lower electricity supply costs and risk for the program in aggregate, along with the electricity bills of participating customers from a "full bill" perspective (inclusive of transmission and distribution charges);
- Strengthen customer relationships and local brand recognition; and
- Protect against customer attrition (the risk that customers opt-out of the program by choosing an alternative supplier) and potentially grow the program's customer base over time.

Local programs, in order to be cost-effective, need to be designed in ways that relate to and actively help manage the various sources of cost and risk involved in operating a competitive power agency.

As explained in the section below, the Coalition will adopt a structured approach to monitoring, analyzing and actively managing energy cost and risk — both to enable the design of cost-effective local programs, and provide additional benefits such as long-term financial stability.

Energy Risk Management & Financial Reserve Policies, Procedures and Practices

Durham Community Power's ability to maintain competitive rates, as market prices and Eversource and ~~NH Electric Cooperative~~ default rates change over time, is a primary goal for the program. Competitive rates will significantly reduce the risk that customers opt-out of Durham Community Power and allow the program to achieve our medium- to long-term goals.

To that end, working with the other members of the Coalition, Durham Community Power will adopt Energy Risk Management and Financial Reserve policies. The purpose of these policies is to:

- Ensure that Durham Community Power allocates customer revenues in ways that balance our community's goals and objectives over the short-to-long term; and
- Define how the Coalition will conduct energy risk management, procurement and market operations on behalf of Durham Community Power (so that the agency remains in compliance with our adopted policies).

Combined with the operational procedures and practices of the Coalition's business model, these policies are designed to ensure that Durham Community Power and all participating members of the Coalition will be able to:

- Foresee, forecast and adequately plan for adverse contingencies (such as power supply shocks, economic downturns and changes in policy and regulations);
- Structure and manage a diversified portfolio (or "book") of physical and financial energy contracts in order to (1) hedge price risk in an optimal fashion by assessing the cost of entering

into forward contracts against the risk of wholesale market price exposure, (2) transact quickly to take advantage of changing market conditions and (3) incorporate energy contracts from a variety of preferred sources (e.g., renewables and battery storage assets, local generators, customer-generators and demand response programs, etc.);

- Maintain competitive rates, and additionally set aside funds to accrue financial reserves, while also implementing local programs (designed in ways that lower portfolio costs and risk factors);
- Draw on financial reserves or credit support sufficient to maintain (1) rate stability for participating customers and (2) adequate cash flow for the Coalition's operations over the course of any adverse events and periods.

As Durham Community Power accrues financial reserves, the Coalition will be able to facilitate additional ways to lower costs, create new value, and further enhance the financial stability of the program. As one example, the accrual of sufficient reserves will allow Durham Community Power to begin self-providing the collateral required for wholesale power market transactions and power purchase agreements. This will lower the capital costs and risk premiums otherwise embedded into the price of power contracts negotiated by the Coalition. Similarly, the Coalition also intends to facilitate pooled power procurement across participating Community Power programs, and to explore opportunities to jointly satisfy collateral obligations within these arrangements.

Lastly, as explained further in the section below, the combination of the Coalition's approach to energy portfolio risk management and the accrual of sufficient financial reserves by participating members is what will enable Durham Community Power to enter into long-term contracts — in order to construct new renewable and battery storage projects.

Development of Renewable and Battery Storage Projects

As Durham Community Power and other participating Community Power programs demonstrate the ability to accrue reserves sufficient to ensure our collective financial stability — and maintain or grow our customer base by offering competitive rates and innovative services over time — the Coalition will be able to facilitate new project developments for Durham Community Power and other Community Power programs that elect to jointly participate in long-term contracting solicitations. As context:

- Project developers and financiers require long-term power purchase agreements (typically 10 years or longer in duration) to justify the upfront cost of constructing renewables and battery storage facilities;
- Consequently, project financiers will not execute long-term contracts with a Community Power program if they do not believe that the program is likely to remain a stable, credit-worthy counterparty (i.e., unlikely to default on payment obligations over the contract term).

Achieving the ability to execute long-term contracts and build new renewables and battery storage projects is a priority for Durham Community Power and the other Community Power programs joining together to create the Coalition. This objective is an important policy goal for our program and will additionally diversify the energy supply portfolio managed by the Coalition.

Portfolio diversification helps to stabilize operating margins by intelligently hedging Durham Community Power's exposure to wholesale market dynamics and price fluctuations. The objective is to enter into contracts that help to manage risk and maximize revenues for the program from total portfolio management perspective, in order to further strengthen our program's financial performance and stability over the long-term. As context:

- When bidding on joint project development solicitations, developers will submit different combinations of technologies, project locations, prices, term lengths and contractual clauses with operational and financial implications.
- Selecting which contracts to enter into — and effectively negotiating contract terms and prices — requires analyzing the different contracts being offered, individually and in combinations, and simulating the impact that the new contracts would have on Durham Community Power’s cashflow, total portfolio costs and risk profile over the length of the contract.
- This exercise, which is a key component of the Coalition’s broader “portfolio strategy” analysis, is referred to as “contract valuation” or “deal valuation”. These simulations will allow the Coalition to quantify the value of the contract (from a portfolio risk management perspective), compare the value against the price being offered by developers, negotiate for better terms and prices as necessary, and enter into contracts on behalf of Durham Community Power that are likely to cost less than the value created at the program portfolio level.

As described in the preceding section “*Energy Risk Management & Financial Reserve Policies, Procedures and Practices*”, the Coalition’s business model has been designed to actively manage a diversified portfolio of energy contracts at launch — which entails:

- Understanding and analyzing energy cost and risk factors on a continuous basis;
- Conducting contract valuation simulations;
- Negotiating contract terms and prices with a variety of counterparties to construct a portfolio of energy contracts that, in aggregate, is designed to optimally hedge price risk; and
- Thereafter, actively and continuously managing the “book” of contracts in response to market dynamics, price movements and opportunities.

In these ways, the Coalition’s business model provides the foundational capabilities required to support joint project development solicitations for Durham Community Power and other participating programs — inclusive of long-term contract valuation simulations, counterparty negotiation, and active management of the contract and overall portfolio thereafter.

Durham Community Power Goals, Objectives and Requirements

Durham Community Power affords the Town the capacity and flexibility to realize and build on our policies pertaining to energy, environment, economic development, and infrastructure.

Our policy goals will need to be pursued through a combination of direct program activities and informed public advocacy at the Legislature and Public Utilities Commission. This will require enhanced coordination with other communities as well as advanced operational services, dedicated expertise, innovation and sustained initiative carried out over a period of multiple years.

Simultaneously, maintaining competitive rates compared to Eversource's ~~and NH Electric Cooperative's~~ default service rates — as market prices, energy technologies and policies change over time — will require nimble decision-making and the ability to evolve business operations in response to changing market conditions in order to actively manage risk, minimize costs and maximize the creation of customer value.

The structure of the Coalition — the combination of the joint powers agency's community governance model, competitive business model and coordinated approach to engaging in public advocacy — has been designed to enable and streamline these activities for Durham Community Power at an advantageous, cost-effective economy-of-scale.

Participation in the Coalition is therefore expected to strengthen the capacity and financial performance of Durham Community Power (DCP), such that the program is able to operate continuously as a self-supporting, competitive enterprise for the foreseeable future, and will therefore be able to work towards achieving the full scope of our policy goals and objectives over the long-term.

Durham's Policy Goals

Durham Master Plan -- From the Durham Master Plan, 2015: "...the Town of Durham, along with commercial property owners and homeowners will continue to realize cost savings while reducing carbon emissions, thereby increasing the community's resiliency and sustainability relative to energy use."

Global Covenant of Mayors (GCOM) – The Durham Energy Committee will continue to encourage the town's commitment to implement GCOM guidelines in establishing long-range energy plans for the Town. By joining GCoM, Durham has pledged to develop, adopt, use, and regularly report on the following, among others:

- Ambitious, measurable and time-bound target(s) to reduce/avoid greenhouse gas (GHG) emissions;
- An ambitious and just goal to improve access to secure, sustainable and affordable energy; and
- A formally adopted plan(s) addressing climate change mitigation / low emission development, climate resilience and adaptation, and access to sustainable energy.

Refer to Attachment 8 for additional select excerpts of these policies:

References:

1. Durham Master Plan, 2015, Energy Chapter.

2. Global Covenant of Mayors website, <https://www.globalcovenantofmayors.org/>

Durham Community Power Objectives

To achieve our policy goals, DCP will be guided by the following objectives:

1. **Save Customers Money:** DCP will only launch if it is able to initially offer default rates that are lower than or competitive with those offered by Eversource ~~and NH Electric Coop.~~
2. **Provide Green Power:** DCP will additionally offer easy to opt-in products, with varied levels of renewable energy to further the town's goal of reducing overall greenhouse gas emissions.
3. **Plan for Rate Stability:** By adopting an Energy Risk Management Policy to guide procurement and coordinating with CPCNH to deposit a portion of revenues into a rate reserve fund, DCP will protect its default service customers against rate fluctuation and ensure its own long-term stability as a program.
4. **Consumer Protections & Public Advocacy:** DCP will
 - a. Ensure that the contracts entered on behalf of DCP customers are fair by operating with transparency, providing regular disclosures to customers, and working with oversight by the Durham Town Council.
 - b. Represent the interests of Durham and the program's customers at the Legislature and Public Utilities Commission on matters pertaining to Community Power and Rate-payer protection.
 - c. Will support the creation of a more competitive, efficient, and green energy market for New Hampshire.
5. **Assist Customers to Lower Total Energy Costs:** DCP will develop education and outreach programs to lower the carbon emissions and the overall cost of customer energy use, through electrification of appliances and vehicles and through thermal efficiency programs to lower heating and cooling energy costs. The adoption by customers of technologies that will reduce the electricity demand of DCP during peak hours will lower transmission and capacity costs for all DCP customers (and other ratepayers). Eventually DCP intends to offer opt-in time varying rates to incentivize shifting power consumption away from times when electricity wholesale market prices are high and demand on the system is peaking.
6. **Promote Renewable Energy:** DCP will advocate for the development of cost-effective projects to supply an affordable energy portfolio using in-state, regional, and local renewable energy and battery storage projects.
7. **Community Resilience:** DCP will advocate for measures and projects that enhance our ability to maintain electric service at all times. DCP will
 - a. Advocate for projects that include back-up power supplies (batteries and generation), and community microgrids on critical facilities;
 - b. Identify collaboration opportunities with UNH on sharing of power assets or other utilities in emergencies

8. **Community Investment:** DCP will strive to increase the financial strength of the community by encouraging local energy generation and storage projects, and supporting customer installation of technologies that control when power is taken from the grid and when it is supplied to the grid to better manage costs. Such projects can attract investment capital and create returns that remain in the community.
9. **Regional Collaborations:** DCP will collaborate with municipalities, other Community Power programs and government agencies to jointly advocate for:
 - a. Cost-effective local renewable generation and storage projects,
 - b. Electric vehicle fleets and charging networks, and
 - c. Other clean energy infrastructure developments
10. **Grid Modernization:** DCP will join with other Community Power programs to advocate for policies, regulations, and infrastructure investments (e.g., advanced metering) that are necessary to enable:
 - a. Innovative customer services
 - b. The intelligent use of new clean technologies,
 - c. Cost-effective integration of local and regional renewable generation
 - d. The reliable operation of customer and community owned microgrids and utility grids.

Through strategies and initiatives like these, enabled by the scope and scale of service provided through the Coalition, Durham Community Power intends to:

- Reduce fossil fuel consumption overall while enhancing the reliability of our electricity grid;
- Create savings and new value for customers; and
- Attract and support local businesses.

These objectives are essential to our continued success as a vital, sustainable community.

Near-Term Operational Requirements

While many of the broader benefits Durham Community Power intends to create for customers and the Town will be developed over time, the program's immediate objective is to offer competitive default supply rates compared to Eversource ~~and NH Electric Cooperative~~ while accruing a reserve fund sufficient to ensure long-term financial stability, and additionally offering voluntary products that retail customers may opt-up to receive, as well as Net Energy Metering supply rates that allow customer generators to participate in the program.

Durham Community Power will need to balance customer rate levels, renewable power content and the accrual of program reserves to meet these objectives.

Performance Relative to Utility Default Service and Net Energy Metering Generation Rates

Compensation to customer generators under Net Energy Metering generation rates, the timing of the program's rate setting decisions and, to a certain degree, the procurement of electricity will need to take into account Eversource and NH Electric Cooperative's tariffs, processes and timing in regard to these activities.

Refer to [Attachment 3](#), [Attachment 4](#), [Attachment 5](#) and the section “[Net Metering and Group Net Metering Policies](#)” for additional documentation and discussion of these factors.

Customer Rates and Products

The table below provides an illustrative example of a default service product and optional rates that could be offered to customers:

	DEFAULT SERVICE (automatic enrollment)	OPTIONAL PRODUCTS		
		Basic Service	Green Start	Prime
Attributes	5-10% above Renewable Portfolio Standard (RPS)	Meets RPS	~50% Renewable	100% Renewable
Price	Meet or beat default utility rate at launch	Below default utility rates	Higher or competitive w/ default utility rate	Exceeds default utility rate

The products that Durham Community Power initially offers to customers, and the rates charged for each product, will be refined and finalized in advance of program launch.

Renewable Portfolio Standard Requirements

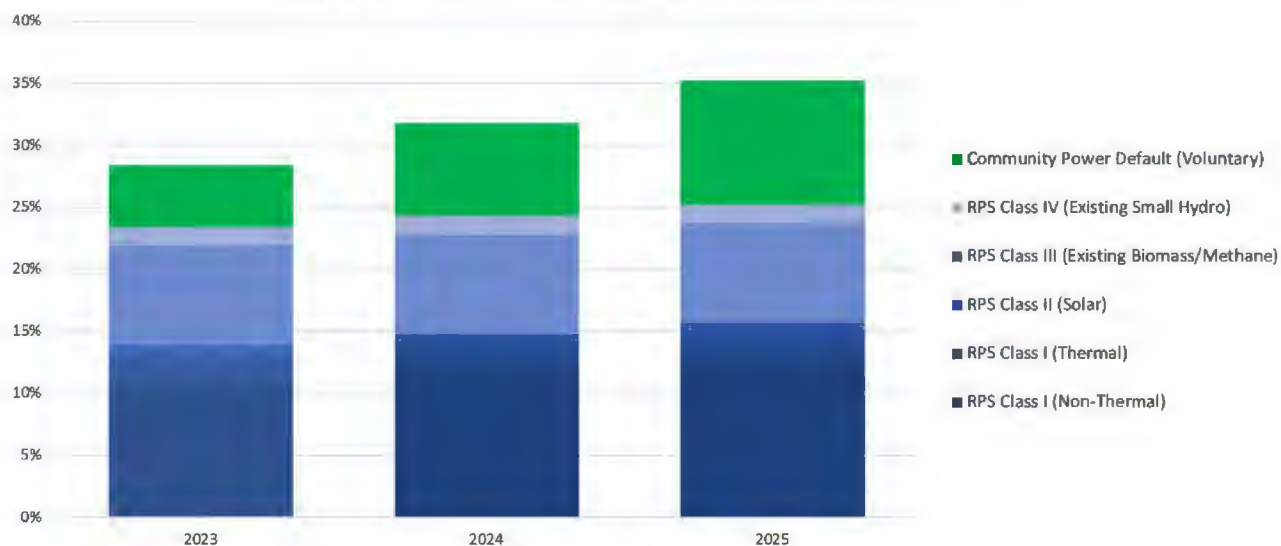
New Hampshire’s Renewable Portfolio Standard (RPS) requires all electricity suppliers to obtain RECs for four distinct “classes” of renewables, each distinguishing between different technologies and dependent upon the year that the generators came online.

For 2021, Eversource and NH Electric Cooperative is required to include 21.6% renewable energy in their energy supply. This minimum compliance requirement will increase incrementally to 25.2% by 2025 and remain fixed thereafter, absent an increase in the RPS.

Durham Community Power will seek to procure voluntary renewables in excess of the RPS minimum requirements from “Class I” resources (as defined in [Attachment 3](#)). Additionally, the program could prioritize including as much renewable energy sourced from generating resources located in New Hampshire and New England as possible.

The chart below shows the different classes and quantities of renewable power required under the RPS between 2023 and 2025, along with, for the sake of illustration, Durham Community Power’s additional voluntary purchases (assuming that the default product from the table in the proceeding section, which exceeds RPS requirements by 5% to 10% each year):

Renewable Portfolio Standard Requirements + Voluntary Purchases



Energy Risk Management and Financial Reserve Policies Compliance

Durham Community Power's power procurement, budgeting and rate-setting will be coordinated with the Energy Risk Management and Financial Reserve policies developed in coordination with CPCNH that will be adopted by the Town Council.

This decision-making framework is intended to guide the program to allocate revenues in a manner that appropriately balances our competing priorities — to ensure that Durham Community Power will remain stable, and able to work towards achieving all of our policy goals, over the long-term.

ELECTRIC AGGREGATION PLAN STATUTORY REQUIREMENTS

The following requirements for this Electric Aggregation Plan, in compliance with RSA 53-E:6, are addressed below:

- A. Organizational structure of the program;
- B. Methods of entering into and terminating agreements;
- C. Operation and funding;
- D. Rate setting, costs, and customer enrollment process;
- E. Rights and responsibilities of program participants;
- F. Net metering and group net metering policies;
- G. Ensuring discounts for Electric Assistance Program participants; and,
- H. Termination of program.

Organizational Structure of the Program

Upon approval of this plan, Durham Community Power will be authorized to provide electricity and other related services to participating residents, businesses, and other customers in the Town.

The Town Council will oversee the program and has overall governance authority. Decisions regarding Durham Community Power, such as amending and modifying program goals or this Electric Aggregation Plan (in accordance with RSA 53-E:7, IX), adoption of ~~Energy Risk Management and Financial Reserve policies~~ Energy Portfolio Risk Management, Retail Rates, and Financial Reserve policies (to govern the program's power procurement and rate-setting decisions) ~~and approval of customer rates,~~ will be made at duly noticed public meetings.

The Town Council has appointed a primary and alternate representative to participate in the Community Power Coalition of New Hampshire and to serve on the agency's initial Board of Directors and may delegate certain decision-making authorities to them and other authorized individuals to carry out their responsibilities at the Town Council's direction.

In general, Durham's representatives will be expected to help oversee the start-up and operation of the agency, provide input regarding the Coalition's public advocacy on matters of policy and regulation, provide direction to the Coalition's vendors and/or staff as the agency's operations and customer services evolve over time, and report back regularly regarding the performance of Durham Community Power and on any matter that warrants attention or requires action by the Town Council.

Additionally, the Durham Energy Committee will continue to hold meetings for the purpose of (1) providing community input and advisory support regarding the program and (2) facilitating public education and engagement in our community.

Methods of Entering Into and Terminating Agreements

This Electric Aggregation Plan authorizes the Town Council to negotiate, enter into, modify, enforce, and terminate agreements as necessary for the implementation and operation of Durham Community Power.

Operation and Funding

Durham Community Power will work through CPCNH to contract with qualified vendors and credit-worthy suppliers to provide the services, credit support and electricity required to launch and operate the program.

This plan assumes, but does not require, Durham to participate fully in the Coalition and thereby contract for operational services jointly with other participating Community Power programs.

The Coalition's third-party contractors will be expected to fund the upfront cost of implementing Durham Community Power, the expense of which will be amortized and recovered in the program's rates and charges to participating customers. The program may also seek opportunities to apply for grant funding, either independently or through the Coalition.

Services provided by third-party entities required to launch and operate the program may include portfolio risk management advisory services, wholesale Load Serving Entity (LSE) services, financial services, electronic data interchange (EDI) services with the utility, and customer notification, data management, billing, and relationship management (e.g., call center, website, etc.) services. Additional information on how Durham Community Power will implement Load Serving Entity (LSE) services is found in Attachment 10, How Load Serving Entity Services will be Implemented.

Additional support services such as management and planning, budgeting and rate setting, local project development support, regulatory compliance, and legislative and regulatory engagement services (on matters that could impact the program and participating customers) will be addressed through a combination of staff support and third-party services.

Durham Community Power will work through CPCNH to provide "all-requirements" electricity supply for its customers, inclusive of all of the electrical energy, capacity, reserves, ancillary services, transmission services, transmission and distribution losses, congestion management, and other such services or products necessary to provide firm power supply to participants and meet the requirements of New Hampshire's Renewable Portfolio Standard. (Refer to [Attachment 3](#) for details regarding the requirements of Renewable Portfolio Standard statute, RSA 362-F.)

~~Electricity supply contracts through CPCNH will be executed or guaranteed by investment-grade entities, and suppliers will be required to use proper standards of management and operations, maintain sufficient insurance and meet appropriate performance requirements.~~

~~If a single supplier is relied upon to provide all-requirements electricity on behalf of Durham Community Power, then (1) the supply contract will be executed or guaranteed by entities that possess at least a BBB- or equivalent investment-grade rating issued by a nationally recognized statistical rating organization (NRSRO), and (2) the supplier will be required to use proper standards of management and operations, maintain sufficient insurance, and meet appropriate performance requirements for the duration of the supply contract. Alternatively, if a portfolio of contracts with multiple entities is structured to diversify counterparty credit risk exposure, and actively managed to provide for all-requirements electricity on behalf of Durham Community Power, then counterparty credit requirements and monitoring, hedging transaction authorities, residual ISO-NE market exposure limits, and reporting requirements will be carried out in accordance with Energy Portfolio Risk Management, Rates, and Financial Reserves policies that would be established prior to commencing procurement and implementing the program.~~

Additionally, RSA 53-E provides Community Power programs with authorities pertaining to meter ownership, meter reading, billing, and other related services. These authorities provide Durham Community Power with the practical ability to help customers adopt and use innovative technologies (for example, building management systems, smart thermostats, backup battery storage systems, controllable electric vehicle chargers, etc.) in ways that save money, enhance grid resiliency and decarbonize our power supply.

However, the implementation of these authorities is expected to take some time, as it requires action by the Public Utilities Commission to adopt enabling rules and coordination with Eversource and NH Electric Cooperative to adapt existing meter and billing system processes.

Rate Setting, Costs, Enrollment Process, and Options

Customers who choose not to participate in Durham Community Power shall not be responsible for any costs associated with the program, apart from incidental costs incurred by the Town prior to the point at which the program starts producing revenue from participating customers (for example, contract review by an attorney, but not any operational or capitalized costs of the program).

Rate Setting and Costs

Durham Community Power will only launch if it is able to offer residential default rates that are initially lower than or competitive with those offered by Eversource ~~and NH Electric Cooperative~~; thereafter, the program will strive to maintain competitive rates for all default service customers, as well as customers who opt-in or opt-up to receive optional retail products, while working to achieve the program's goals (as set forth in this Electric Aggregation Plan and modified from time to time at the direction of the Town Council).

The Town Council, in coordination with CPCNH, will adopt Energy Portfolio Risk Management, Retail Rates and Financial Reserve policies to govern the program's power procurement and rate-setting decisions. Rates will be set at a level such that revenues from participating customers are projected to meet or exceed the ongoing operating and capital costs of the program.

To ensure the financial stability of Durham Community Power, a portion of revenues will be deposited through CPCNH in a financial reserve account. In general, the fund will be restricted for uses such as:

- **In the near-term**, maintain competitive customer rates in the context of price fluctuations in the electricity market and other factors;
- **In the medium term**, as collateral for power purchase agreements (including for the development of new renewable and battery storage projects), and for additional credit enhancements and purposes that lower the program's cost of service; and
- **Over the long term**, may also be used to directly fund other program financial requirements, or to augment the financing for development of new projects and programs in the later years of the program, subject to the Town Council's approval.

As required by law, the program will ensure the 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.

In other words, customers will be treated the same based on their circumstances. For example, any customers that opt-in after being offered the opportunity to participate during the initial enrollment period may be offered rates that reflect how market prices have changed in the intervening period.

Changes to the program's default service rates shall be set and publicly noticed at least 30 days in advance of any rate change.

Enrollment Process and Options

Durham Community Power intends to launch on an opt-out basis, providing an alternative default service to the utility provided default service rate. After approval of this Electric Aggregation Plan and before the launch of Durham Community Power, all customers in the Town will be sent notifications regarding the program and offered the opportunity to participate:

- **Customers currently on default service provided by Eversource ~~or NH Electric Cooperative~~** will be sent "opt-out" notifications — describing the program, its implications for the Town, the rights and responsibilities of customers, and program rates and charges — with instructions on how to decline participation, and thereafter be transferred to Durham Community Power if they do not opt-out of the program prior to launch.
- **Customers already served by Competitive Electric Power Suppliers** will receive "opt-in" notifications describing the program and may request to opt-in to the program.

If the Eversource and NH Electric Cooperative have not fully implemented Public Utilities Commission rules and procedures governing Community Power Aggregation service, certain groups of customers on default service provided by the utilities may need to be offered service on an opt-in basis, and/or offered service on an opt-out basis at a future date. For example, if the utilities are unable to reliably provide Durham Community Power with the data on customer-generators necessary to offer Net Energy Metering (NEM) rates and terms, then Durham Community Power may initially choose to not enroll customer-generators on an opt-out basis, as doing so could risk negatively impacting NEM customer billing and crediting procedures.

Customers will be notified through a mailing, which will be posted not less than 30 days prior to the enrollment of any customers. All information will be repeated and posted at the Town's Community Power website. A public information meeting will be held within 15 days of the notification to answer program questions or provide clarification.

Optional products, such as increased renewable power content in excess of the Renewable Portfolio Standard (RPS) content of the program's default product and other energy services, may be offered on an opt-in basis.

After launch and in accordance with any applicable rules and procedures established by the Public Utilities Commission, new customers will be provided with the default service rates of Eversource ~~or NH Electric Cooperative~~ and Durham Community Power, and will be transferred onto Durham Community Power's default service unless they choose to be served by Eversource, ~~NH Electric Cooperative~~ or a Competitive Electric Power Supplier.

Customers that request to opt-in to the program may do so subject to the terms of Durham Community Power.

Residents, businesses, and other electricity customers may opt-out of participating in Durham Community Power default service at any time, by submitting adequate notice in advance of the next regular meter reading by Eversource or NH Electric Cooperative (in the same manner as if they were on utility provided default service or as approved by the Public Utilities Commission).

Customers that have opted-in to an optional product offered by Durham Community Power may switch back to the Eversource or NH Electric Cooperative or to take service from a Competitive Electric Power Supplier subject to any terms and conditions of the optional product.

Rights and Responsibilities of Program Participants

All participants will have available to them the customer protection provisions of the law and regulations of New Hampshire, including the right to question billing and service quality practices.

Customers will be able to ask questions of and register complaints with the Town, Eversource and NH Electric Cooperative and the Public Utilities Commission.

Durham Community Power shall maintain the confidentiality of individual customer data in compliance with its obligations as a service provider under RSA 363:38 (privacy policies for individual customer data; duties and responsibilities of service providers) and other applicable statutes and Public Utilities Commission rules. Individual customer data includes information that singly or in combination can identify that specific customer including the individual customers' name, service address, billing address, telephone number, account number, payment information, and electricity consumption. Such individual customer data will not be subject to public disclosure under RSA 91-A (access to governmental records and meetings). Suppliers and vendors for Durham Community Power will be contractually required to maintain the confidentiality of individual customer data pursuant to RSA 363:38, V(b). Attachment 11, Customer Data Protection Plan, details the reasonable security procedures and practices that the Town and Durham Community Power will employ to protect individual customer data from unauthorized access, use, destruction, modification, or disclosure.

Aggregate or anonymized data that does not compromise confidentiality of individual customers may be released at the discretion of Durham Community Power and as required by law or regulation.

Participants will continue to be responsible for paying their bills. Failure to do so may result in a customer being transferred from Durham Community Power back to Eversource and NH Electric Cooperative (the regulated distribution utility and provider of last resort) for default energy service, payment collections and utility shut offs under procedures subject to oversight by the Public Utilities Commission.

Net Metering and Group Net Metering Policies

Under the net metering process, customers who install renewable generation or qualifying combined heat and power systems up to 1,000 kilowatts in size are eligible to receive credit or compensation for any electricity generated onsite in excess of their onsite usage.

Any surplus generation produced by these systems flows back into the distribution grid and offsets the electricity that would otherwise have to be purchased from the regional wholesale market to serve other customers.

Currently, customer-generators are charged their full retail rate for electricity supplied by Eversource and NH Electric Cooperative and receive credits for electricity they export to the grid based on Eversource and NH Electric Cooperative's Net Energy Metering (NEM) tariffs.

Durham Community Power intends to provide new rates and terms that compensate participating customer-generators for the electricity supply component of their net metered surplus generation.

Customer-generators will continue to receive any non-supply related components (e.g., transmission and distribution credits) directly from Eversource and NH Electric Cooperative, as specified under the terms of their applicable net energy metering tariff.

For group net metering where the host customer-generator is on default service, to the extent Durham Community Power's supply rates are lower than Eversource and NH Electric Cooperative's default service rate or if the host is located outside of Durham, it may be most advantageous for the host to remain a Eversource and NH Electric Cooperative default service customer, while the other group members are free to switch to Durham Community Power for their supply and continue to receive on-bill credits for their participation in the group.

Durham Community Power's exact terms, conditions, and rates for compensating and crediting different types of NEM customer generators in the Town will be set at duly noticed public meetings and fully disclosed to all prospective NEM customers through the program's enrollment notification process and thereafter.

Certain aspects of administering net energy metering require coordination Eversource and NH Electric Cooperative and Durham Community Power. The enabling services and strategies that Durham Community Power may pursue, in order to benefit and encourage customers to adopt distributed generation, include but are not limited to:

- Dual-billing customer-generators separately for supply services;
- Offering time-varying rates and alternative credit mechanisms to compensate customers for surplus generation;
- Streamlining the establishment of new Group Net Metering and Low-Moderate Income Solar Project groups;
- Facilitating interval meter and Renewable Energy Certificate (REC) meter installations for customer-generators; and
- Engaging at the Legislature and Public Utilities Commission to advocate for upgrades and reforms to metering and billing infrastructure and business processes to enable Net Energy Metering and other innovative services to benefit customer-generators.

For additional details regarding these enabling services and strategies, refer to:

- [Attachment 5](#) provides an overview of Eversource and NH Electric Cooperative's net energy metering tariffs in use today, including the "standard" and "alternative" tariffs for individual customer-generators as well as Group Net Metering and Low-Moderate Income Solar Project options, and tables showing the number of customer-generators on net metered service in each utility territory;
- [Attachment 6](#) provides an in-depth discussion regarding operational and strategic opportunities to enhance net metering and group net metering through Durham Community Power.

Ensuring Discounts for Electric Assistance Program Participants

Income eligible households can qualify for discounts on their electric bills under the Electric Assistance Program. Durham Community Power will support income eligible customers who enroll in the Electric Assistance Program to receive their discount.

Electric Assistance Program discounts are funded by all ratepayers as part of the System Benefits Charge, which is charged to all customers and collected by the distribution utilities.

At present, the Public Utilities Commission and utilities only support provision of the discount to individual customers when the customer's electricity supply charges are billed through the distribution utility.

Durham Community Power consequently plans to rely on Eversource and NH Electric Cooperative to bill all customer accounts enrolled in the Electric Assistance Program. This represents no change in the provision or funding of this program.

This arrangement may be revisited if, at some point in future, the Public Utilities Commission enables Community Power programs to provide Electric Assistance Program customers with their discount directly.

Termination of the Program

There is no planned termination date for Durham Community Power.

Durham Community Power may be terminated by majority approval of the Town Council. If so terminated, Durham Community Power would cease operations after satisfying any obligations contractually entered into prior to termination, and after meeting any advance notification period or other applicable requirements in statute or regulation, at which point participating customers would either be transferred to default service provided by Eversource and NH Electric Cooperative or to a Competitive Electric Power Supplier of their choosing.

Durham Community Power will provide as much advance notice as possible regarding the potential or planned termination of the program to participating customers, the Coalition, the Public Utilities Commission and Eversource and NH Electric Cooperative.

Upon termination, the balance of any funds accrued in the program's financial reserve fund and other accounts, if any, would be available for distribution or application as directed by the Town Council and in accordance with any applicable law and regulation.

Attachments

Attachment 1: Legislative Background and Local Control Authorities

In 1996, New Hampshire led the nation in being the first state to pass an Electric Utility Restructuring Act ([RSA 374-F](#)), the purpose of which is excerpted in full below:

- I. The most compelling reason to restructure the New Hampshire electric utility industry is to reduce costs for all consumers of electricity by harnessing the power of competitive markets. The overall public policy goal of restructuring is to develop a more efficient industry structure and regulatory framework that results in a more productive economy by reducing costs to consumers while maintaining safe and reliable electric service with minimum adverse impacts on the environment. Increased customer choice and the development of competitive markets for wholesale and retail electricity services are key elements in a restructured industry that will require unbundling of prices and services and at least functional separation of centralized generation services from transmission and distribution services.*
- II. A transition to competitive markets for electricity is consistent with the directives of part II, article 83 of the New Hampshire constitution which reads in part: “Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it.” Competitive markets should provide electricity suppliers with incentives to operate efficiently and cleanly, open markets for new and improved technologies, provide electricity buyers and sellers with appropriate price signals, and improve public confidence in the electric utility industry.*
- III. The following interdependent policy principles are intended to guide the New Hampshire public utilities commission in implementing a statewide electric utility industry restructuring plan, in establishing interim stranded cost recovery charges, in approving each utility’s compliance filing, in streamlining administrative processes to make regulation more efficient, and in regulating a restructured electric utility industry. In addition, these interdependent principles are intended to guide the New Hampshire general court and the department of environmental services and other state agencies in promoting and regulating a restructured electric utility industry.*

Prior to this point, state regulators set retail customer rates to allow electric utilities to recover profits and prudently earned costs for “vertically integrated” monopoly service — spanning wholesale electricity generation, transmission, local distribution and retail customer services (metering, billing, collections, call center operations and so on).

Restructuring sought to increase competition and technological innovation in the markets for wholesale electricity supply and retail customer services, by requiring electric utilities to divest of their generation portfolios, creating a Federally regulated regional electricity market or “Independent System Operator” (ISO New England is the market operator for New England), and allowing Competitive Electric Power Suppliers (CEPs) to offer electricity supply rates and other services to retail customers.

Customers that did not choose a competitive supplier were left on “default service” provided by the electric utilities — afterwards referred to as “electric distribution companies” — which continue to be regulated by the Public Utilities Commission. The distribution utilities periodically hold auctions for competitive suppliers to bid against one another for the right to supply electricity to

default service customers in large groups to competitive suppliers. (Refer to [Attachment 4](#) for additional details on this process.)

Status of the Competitive Market

Nearly a quarter century has passed, and New Hampshire's competitive market has seen little growth since 2013. Four out of five customers remain on default service provided by the distribution utilities, and the customers that are on competitive supply only account for about half of total electricity usage.

Regulated distribution utilities continue to provide services that are not natural monopolies, and could therefore be available by competitive means, such as: default electricity supply, metering, meter data management, billing and other retail customer services (such as demand response and energy storage for smaller customers).

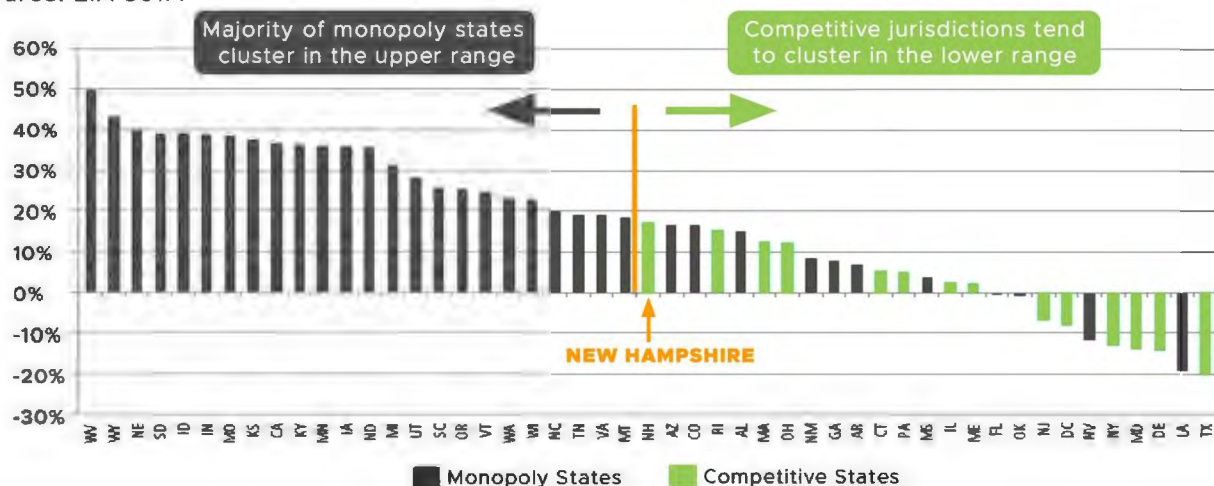
The continued reliance on utilities to provide these customer-facing services has necessitated state regulation over many aspects of the retail customer market. Utility regulation relies on administrative regulatory proceedings, which are necessarily more slow-moving and unable to respond to changing customer technologies and wholesale market dynamics (such as the increased price volatility caused by higher levels of renewable generation) compared to the nimbler, market-based framework envisioned under the Electric Utility Restructuring Act.

Residential customers, in particular, are not offered many rate options or clean technology innovations today: out of the 29 competitive suppliers currently offering service in New Hampshire, only nine offer service to residential customers (and only four serve customers in every distribution utility territory).

As a consequence, New Hampshire has fallen behind every other state with a restructured electricity market in terms of price competition:

All Sector Price % Price Change by State, 2008-2019

Source: EIA 861M



Credit: Retail Energy Supply Association, 2020.

The Community Power Act

In order to support the growth of competitive market services in alignment with The Electric Utility Restructuring Act, [RSA 53-E](#) (as modified by Senate Bill 286 and House Bill 315) authorizes towns,

cities and counties to launch Community Power programs that replace distribution utilities as default suppliers of electricity to retail customers. The purpose of RSA 53-E is excerpted below:

“The general court finds it to be in the public interest to allow municipalities and counties to aggregate retail electric customers, as necessary, to provide such customers access to competitive markets for supplies of electricity and related energy services. The general court finds that aggregation may provide small customers with similar opportunities to those available to larger customers in obtaining lower electric costs, reliable service, and secure energy supplies. The purpose of aggregation shall be to encourage voluntary, cost effective and innovative solutions to local needs with careful consideration of local conditions and opportunities.”

To achieve this purpose, RSA 53-E:3 allows Community Power programs to enter into agreements and provide for:

“the supply of electric power and capacity; demand side management; conservation; meter reading with commission approval for meters owned or controlled by the electric distribution utilities or used for load settlement; customer service for aggregation provided services; other related services; and the operation of energy efficiency and clean energy districts adopted by a municipality pursuant to RSA 53-F and as approved by the municipality’s governing body.”

RSA 53-E further provides Community Power programs with authorities and regulatory pathways to offer more advanced meters for customers, and to provide for alternative customer billing options. Both metering and billing services are important means by which Community Power programs will be able to better engage customers and offer more innovative services that lower the energy expenditures and carbon emissions for individual customers and communities.

To enable all municipalities to work together to achieve this purpose, RSA 53-E:3 provides that *“such agreements may be entered into and such services may be provided by a single municipality or county, or by a group of such entities operating jointly pursuant to [RSA 53-A](#).”*

To ensure that utilities are fairly compensated for their continuing role in owning and operating the distribution grid, RSA 53-E:4(III) stipulates that:

“Transmission and distribution services shall remain with the transmission and distribution utilities and who shall be paid for such services according to rate schedules approved by the applicable regulatory authority, which may include optional time varying rates for transmission and distribution services that may be offered by distribution utilities on a pilot or regular basis.”

The law further provides that Community Power programs *“shall not be required to own any utility property or equipment to provide electric power and energy services to its customers.”*

Enabling locally controlled Community Power programs, in order to exercise local control over these authorities and bring in third-party competitors to provide more innovative services on a community-wide scale, represents a viable and stable pathway to animate competitive retail markets across New Hampshire — and thus realize a lower-cost, more innovative and sustainable future for both our community and all Granite Staters.

Durham is committed to using its local control authorities granted under RSA 53-E to accelerate innovation, customer and community choice in electricity supply, the creation of new economic value, and a sustainable and resilient future for our Town and customers.

Attachment 2: The Community Power Coalition of New Hampshire

Durham is a founding member of the Community Power Coalition of New Hampshire (“CPCNH” or “the Coalition”), a nonprofit joint powers agency authorized under RSA 53-A and governed by participating communities under the terms of the Joint Powers Agreement unanimously approved by Durham’s Town Council on September 27, 2021.

The Joint Powers Agreement is available on the Coalition’s webpage (<http://www.cpcnh.org>). The agreement includes the nonprofit’s Bylaws and Articles of Agreement, and details the common purpose, authorities, structure, Board of Directors, committees, cost sharing principals, liability protections, and other aspects of the organization.

The Coalition was incorporated on October 1, 2021 by the following founding local government Members: the cities of Lebanon, Nashua and Dover; the towns of Hanover, Harrisville, Exeter, Rye, Warner, Walpole, Plainfield, Newmarket, Enfield and Durham; and Cheshire County. Subsequent communities to have joined the Coalition’s Membership include: the city of Portsmouth and the towns of Hudson, New London, Pembroke, and Webster.

Each Member has appointed a Director and Alternate to serve on the Coalition’s Board of Directors. The Board will directly oversee the initial startup and implementation activities of the Coalition.

Municipalities that adopt the Joint Powers Agreement in the future may subsequently apply for membership in the Coalition under the terms and procedures provided for under the agreement.

Since incorporating, the agency has:

- Established an Executive Committee, Finance Committee, Member Operations & Engagement Committee, Risk Management Committee, Regulatory & Legislative Affairs Committee, and CEO & Staff Search Committee
- Received approximately \$135,000 in grants and donations to cover start-up administrative expenses and consulting services.
- Contracted for General Counsel legal services on an at-risk, deferred compensation basis (to be repaid after the launch of Community Power Aggregation (CPA) service) provided by Duncan Weinberg Genzer & Pembroke, P.C. with Eli Emerson from Primmer Piper Eggleston & Cramer as New Hampshire counsel.
- Contracted for technical consulting services provided by Community Choice Partners, Inc., with two-thirds compensation on an at-risk, deferred basis (to be repaid after the launch of CPA service).
- Contracted with Herndon Enterprises, LLC to provide organizational support and Member services.
- Issued a Request for Information and subsequent Request for Proposals for Comprehensive Services and Credit Support, both of which received numerous competitive responses from candidate service providers.

CPCNH intends to contract with qualified vendors and credit-worthy suppliers to provide the services, credit support and electricity required to launch and operate member Community Power programs.

These third parties are expected to fund the upfront cost of implementing Community Power programs, the expense of which is expected to be amortized and recovered in the program’s rates and charges to participating customers for a specified term. Similar at-risk and performance-

based contract structures have been used to successfully launch and operate new joint powers agencies in other Community Power markets.

To ensure effective management of operations, as well as enhanced transparency and oversight, the Coalition plans to hire a small number of qualified staff.

Coalition Design Process

The Coalition “Organizing Group” was initially convened in December 2019, with communities interested in Community Power meeting regularly to research national best practices and explore the viability of establishing a collaborative nonprofit to share services across municipalities and counties:

- The Coalition’s initial Organizing Group consisted of the cities of Lebanon and Nashua, the towns of Hanover and Harrisville, and Cheshire County;
- Technical and community advisors included representatives from both Thayer School of Engineering and Tuck School of Business at Dartmouth, the Monadnock Sustainability Hub, Clean Energy New Hampshire, Growing Edge Partners and Community Choice Partners;
- Activities were carried out in four working group tracks: Governance Agreements, Regulatory and Policy Engagement, Design and Implementation, and Community Engagement.

Members of the Coalition’s Organizing Group have:

- Participated in the Community Power informal rule drafting process, including by providing the initial and subsequent draft rules for discussion, arranging bilateral meetings with utilities and other stakeholders, and leading significant portions of the subsequent stakeholder workshops at the request of Public Utilities Commission staff;
- Intervened in regulatory proceedings and legislative hearings to represent the interests of communities and customers, such as by advocating for expanded data access in the Commission’s Statewide Data Platform docket, DE 19-197, and successfully negotiating the clarification and expansion of key Community Power authorities in House Bill 315;
- Assessed power agency design best practices — in terms of public governance and competitive operating models — by interviewing elected officials, senior staff and vendors operating Community Power programs in other states, along with representatives from public power associations (such as the American Public Power Association and the Vermont Public Power Supply Authority) and other industry experts; and
- Hosted a virtual summit on Community Power that was attended by over eighty representatives from thirty-one municipalities, collectively representing one-quarter of the state’s default electricity market.

The City of Lebanon, using grant funding and in collaboration with the Organizing Group executed legal, community engagement and professional service contracts to help formally establish and implement the Community Power Coalition of New Hampshire.

Joint Powers Agreement Drafting Process

The Organizing Group began by surveying other Community Power states and the broader public power industry, assessed the legal and governance structure of a selection of successful nonprofit power agencies that provide services to multiple municipal members, and interviewed staff and elected officials involved.

After discussing joint governance issues and reviewing the governance documents of comparable entities, the Organizing Group created a draft Joint Powers Agreement for the Coalition in July 2020. In September 2020, the City of Lebanon and Town of Hanover, in collaboration with the Organizing Group, reviewed six responses to a Request for Qualifications and retained the legal services of Duncan, Weinberg, Genzer & Pembroke (DWGP). The firm was hired to provide advice on key aspects of joint power agency governance and to finalize the Coalition's Joint Powers Agreement, in compliance with RSA 53-A., with additional support provided by New Hampshire counsel on a subcontracted basis. DWGP are national leaders with over 50 years in public power legal guidance, and the project was led by DWGP President Michael Postar Esq.

The Joint Powers Agreement was finalized in December 2020.

Outreach and Implementation Process

In February 2021, the City of Lebanon, using previously secured grant funding and in collaboration with the Coalition's Organizing Group, contracted with Henry Herndon (formerly the Director of Local Energy Solutions at Clean Energy New Hampshire) and Samuel Golding of Community Choice Partners, Inc., to provide implementation support services prior to launch.

Mr. Herndon was enlisted to facilitate branding and policy communication efforts, draft an outreach strategy, compile resources and facilitate the engagement of prospective members, and onboard new members and their representatives throughout the state to the Coalition.

Mr. Golding was enlisted to advise on Community Power rule development at the Public Utilities Commission and other regulatory and legislative affairs, draft Electric Aggregation Plans and support municipalities through the local approval process, create educational materials and presentations, draft a business plan and budget for the Coalition, advise on Board policies and staffing, prepare vendor surveys and a request for proposals for the services and financing required to launch Community Power programs, and assist in the bid evaluation, award and contracting process.

Attachment 3: New Hampshire's Renewable Portfolio Standard

New Hampshire's Electric Renewable Portfolio Standard ("RPS") statute, RSA 362-F, established the renewable energy policy for the State.

The RPS statute requires each electricity provider, including Eversource and NH Electric Cooperative and Durham Community Power, to meet a certain percentage of customer load by purchasing, generating or otherwise acquiring Renewable Energy Certificates ("RECs"):

- One REC represents the renewable attributes of one megawatt-hour of electricity, or the equivalent amount of useful thermal energy.
- RECs are generated by certified renewable energy facilities for power that is physically delivered into the New England wholesale electricity market operated by ISO-New England (which means the power can come from within New England, New York or eastern Canada).
- The New England Power Pool Generation Information System (NEPOOL GIS) issues and tracks RECs for the region.
- RECs are generally used for compliance in the same year as the renewable power was generated, though suppliers may "bank" RECs for up to two years to meet up to 30% of compliance requirements.

There are four distinct "classes" of renewable certificates under the RPS, each distinguishing between different technologies and dependent upon the year that the generators came online:

1. Class I is divided between thermal and non-thermal renewables:
 - Class I non-thermal electricity, from generators that came online after January 1, 2006: wind, solar, small hydroelectric, methane (biologically derived such as from anaerobic digestion of organic materials), biomass, hydrogen (from methane or biomass), ocean thermal, current, tidal or wave energy and also biodiesel (if produced in state).
 - Class I thermal energy, from generators that came online after January 1, 2013 (and are producing thermal energy, rather than electricity): geothermal, solar thermal, biomass and methane.
2. Class II: solar generation that came online after January 1, 2006
3. Class III: biomass & methane that came online before January 1, 2006
4. Class IV: small hydroelectric that came online before January 1, 2006

Electricity suppliers must obtain RECs for each of the four classes of renewables as a set percentage of their retail electric load, which increase on an annual basis (until plateauing after 2025, unless the RPS is raised in future):

Compliance Year	Total RPS Requirement	Class I Non-Thermal	Class I Thermal	Class II Solar	Class III Biomass & Methane	Class IV Small Hydro
2020	20.70%	8.90%	1.60%	0.70%	8.00%	1.50%
2021	21.60%	9.60%	1.80%	0.70%	8.00%	1.50%
2022	22.50%	10.30%	2.00%	0.70%	8.00%	1.50%
2023	23.40%	11.00%	2.20%	0.70%	8.00%	1.50%
2024	24.30%	11.90%	2.20%	0.70%	8.00%	1.50%
2025 onwards	25.20%	12.80%	2.20%	0.70%	8.00%	1.50%

Note the following flexibilities in meeting Class I requirements:

- Class I non-thermal requirements may be met with Class I thermal biomass and methane resources;
- Class I requirements may also be met with Class III (biomass & methane, thermal and non-thermal) or Class IV (small hydroelectric, non-thermal) resources that have been restored through significant investment or have otherwise begun generating in excess of historic baselines; and
- Solar that came online after January 1, 2006 may be used to satisfy Class II or Class I requirements.

Additionally, net metered customers (primarily customers with solar photovoltaics) that meet certain registration and administrative requirements can track and sell their RECs (which are accounted for in NEPOOL's Generation Information System). Not all customers do, however, and the REC production from such customer generators are estimated by the Public Utilities Commission each year and applied to lower the Class I and Class II procurement requirements of the utilities and other suppliers.

If the electricity providers are not able to meet the RPS requirements by purchasing or acquiring renewable energy certificates, they must pay alternative compliance payments (ACPs). The funds are used for a variety of renewable programs in New Hampshire.

The result is that these alternative compliance payment prices essentially act as a price ceiling for the REC market in New Hampshire. The ACPs for RECs by class in recent years are:

Inflation Adjusted Alternative Compliance Payment Rate (\$ per Megawatt Hour)					
	2017	2018	2019	2020	2021
Class I (Non-Thermal)	\$ 56.02	\$ 56.54	\$ 57.15	\$ 57.61	\$ 57.99
Class I Thermal	\$ 25.46	\$ 25.69	\$ 25.97	\$ 26.18	\$ 26.35
Class II	\$ 56.02	\$ 56.54	\$ 57.15	\$ 57.61	\$ 57.99
Class III	\$ 55.00	\$ 55.00	\$ 55.00	\$ 34.54	\$ 34.99
Class IV	\$ 27.49	\$ 28.00	\$ 28.60	\$ 29.06	\$ 29.44

For example, Eversource, Unitil and the New Hampshire Electric Cooperative have recently made alternative compliance payments instead of purchasing certain categories of RECs:

For additional information on the Renewable Portfolio Standard, refer to:

- [New Hampshire's RPS statute \(RSA 362-F\)](#)
- [Public Utilities Commission RPS Website](#)
- [New Hampshire Renewable Energy Fund Annual Report \(1 October 2020\)](#)
- [UNH Sustainability Institute Study: New Hampshire RPS Retrospective 2007 to 2015](#)

2019 Company	Alternative Compliance Payments (ACPs)					
	Class I	Class I Thermal	Class II	Class III	Class IV	Total
Liberty Utilities	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
New Hampshire Electric Cooperative	\$ -	\$ 187,192	\$ -	\$ -	\$ -	\$ 187,192
Eversource Energy	\$ -	\$ 519,893	\$ -	\$ -	\$ -	\$ 519,893
Unitil Energy Systems, Inc.	\$ -	\$ -	\$ 1,029	\$ -	\$ -	\$ 1,029
Distribution Utilities Subtotal	\$ -	\$ 707,085	\$ 1,029	\$ -	\$ -	\$ 708,114

Attachment 4: Utility Default Procurement Cycles and Rate Setting

Durham Community Power has a goal of maintaining competitive default rates compared to Eversource ~~and NH Electric Cooperative~~, while also offering voluntary products that retail customers may opt-in to receive.

The timing of the program's rate setting decisions and, to a certain degree, the procurement of electricity will need to consider when Eversource and NH Electric Cooperative conducts these same activities (particularly for the program's default electricity product).

As context, Eversource, Liberty Utilities and Unitil all issue requests for proposals (RFPs) twice annually for competitive suppliers to assume load-serving entity obligations and supply default customers with electricity for 6-month "strip" periods, with suppliers bidding to serve individual "tranches" or segments of customers by class.

The procurement schedules, tranches and rate practices for each distribution utility are:

- **Eversource** (Public Service Company of New Hampshire): issues RFPs in May and November with bids due in early June and December for suppliers to begin serving customers in August and February, offering four ~100 MW tranches to serve small customers and a single tranche to serve large customers (five tranches in total). Retail rates are fixed over the 6-month period for small customers and vary by month for large customers.
- **Liberty Utilities**: follows the same supplier RFP schedule and retail pricing as Eversource but (1) solicits supply for small customers in a single 6-month block tranche and for large customers in two, consecutive three-month block tranches (3 tranches total), and (2) allows bidders to include and price RPS compliance obligations separately (as an additional product).
- **Unitil**: issues RFPs in March and August for delivery beginning in June and December, offering tranches of residential, small commercial, outdoor lighting and large customers classes (four tranches). The large customer RFP is structured in a distinct fashion, in that it passes through market costs for energy and so suppliers compete to price capacity, congestions, ancillary services, etc. for the large customer tranche over the 6-month term; retail rates reflect these load-serving entity costs along with the pass-through of real time locational marginal market prices (which are load-weighted by the entire class' hourly load shape i.e., not the individual large customer's usage profile). Retail rates for the residential, small commercial, and outdoor lighting classes are fixed over the 6-month term, though customers have the option to choose variable monthly pricing if the election is made prior to the start of the next 6-month term.

Supplier bids are priced in dollars per megawatt-hour (\$/MWh) on a monthly basis and generally exclude Renewable Portfolio Standard (RPS) compliance obligations (called "Renewable Energy Certificates" or "RECs"), though Liberty Utilities allows RECs to be bid as a separate product. Distribution utilities typically procure most or all of their supply of RECs through competitive solicitations held separately from the auctions for default electricity service.

New Hampshire's RPS requires all electricity suppliers to procure or otherwise obtain RECs for four distinct "classes" of renewables, each distinguishing between different technologies and dependent upon the year that the generators came online.

For 2022, Eversource and NH Electric Cooperative is required to include 22.5% renewable energy in their energy supply. This minimum compliance requirement will increase incrementally to 25.2% by 2025 and remain fixed thereafter, absent an increase in the RPS.

Refer to [Attachment 3](#) for further details on the RPS.

Attachment 5: Overview of Utility Net Energy Metering Tariffs

Discussion of Utility Net Metering, Group Net Metering and Low-Moderate Income Solar Project Tariffs

Under the net metering process, customers who install renewable generation or qualifying combined heat and power systems up to 1,000 kilowatts in size are eligible to receive credit or compensation for any electricity generated onsite in excess of their onsite usage.

Any surplus generation produced by these systems flows back into the distribution grid and offsets the electricity that would otherwise have to be purchased from the regional wholesale market to serve other customers.

The credits and compensation customer-generators receive for electricity exported to the grid are defined under Net Energy Metering (NEM) tariffs offered by Eversource, Liberty Utilities, Unitil and the New Hampshire Electric Co-op (NHEC). Note that:

- NHEC is member-owned cooperative and as such, its rules and regulations are approved by its Board of Directors and are not subject to regulation by the Public Utilities Commission. Additional information regarding NHEC's Net Energy Metering tariffs may be found online under their "[Terms and Conditions](#)".
- The Public Utilities Commission regulates the distribution utilities' Net Energy Metering (NEM) tariffs in accordance with [PUC Rule 900](#) and [RSA 362-A:9](#) (refer to [RSA 362-A:9, XIV](#) specifically for Group Net Metering statutes).

The remainder of this chapter concerns NEM tariffs regulated by the Public Utilities Commission. Note that:

- NEM tariffs offered by the utilities underwent a significant change several years ago;
- Customer-generators that installed systems before September 2017 may still take service under the "NEM 1.0" tariff ("standard" or "traditional" NEM); whereas
- Systems installed after August 2017 must take service under the "NEM 2.0" tariff ("alternative NEM")
- NEM 1.0 customers are allowed to switch to taking service under the NEM 2.0 tariff, but cannot subsequently opt-back to NEM 1.0 (with limited exceptions, e.g., participation in certain pilot programs).

Under both tariffs, customer-generators are charged the full retail rate for electricity supplied by Eversource and NH Electric Cooperative and receive credits for electricity they export to the grid for some (but not all) components of their full retail rate. Refer to the next subsection for tables comparing NEM 1.0 to 2.0 tariffs.

To appropriately measure and credit customer-generators taking service under a NEM tariff, the utility installs a bi-directional net meter that records each kilowatt-hour (kWh) supplied to the customer from the grid and also each kWh that flows back into the grid. This data is recorded and collected on a monthly billing-cycle basis.

For NEM 1.0 tariff systems (installed before September 2017), any kWh exported to the grid are netted against kWh consumed. If there is a net surplus of kWh at the end of the monthly billing period (i.e., more power was exported to the grid by the customer-generator than was consumed)

those surplus or negative kWh are carried forward and can be used to offset future kWh consumption (so the customer only pays for their “net” energy consumption).

For NEM 2.0 tariff systems (installed after August 2017), all customer-generators receive a monetary credit for each kWh that is exported valued at 100% of their default electricity supply rate component for the month. Smaller systems (up to 100 kilowatts in size) additionally receive credits for 100% of the transmission component and 25% of the distribution component of their retail rate. (Larger systems, up to 1,000 kilowatts in size, only receive full credit for the electricity supply rate component.)

Note that most customer-generators in Durham Community Power are expected to be taking service under NEM 2.0 tariffs going forward.

Any credits that accumulate over time are tracked and used to offset the customer-generator’s future electricity bills. Customers may also request to cash-out their surplus credit once a year, after their March billing cycle, if the balance exceeds \$100 (or any balance in the event of moving or service disconnection). NEM 1.0 surplus balances are tracked as kWh credits and are converted to dollars at wholesale avoided costs, while NEM 2.0 surplus balances are tracked as monetary credits directly (in dollars). Note that these cash-outs are treated as taxable income by the Internal Revenue Service (IRS). Payments of \$600 or more remitted to the customer are accompanied by a 1099 form for the IRS. Utilities may also issue IRS Form 1099s for smaller amounts.

Alternatively, Group Net Metering is a process that allows any customer-generator to share the proceeds of their surplus generation credits to directly offset the electricity bills of other customers, which is financially more advantageous and can increase the effective value of the system. All the members in the group need to be within the same distribution utility service territory but may be served by different suppliers. The credits are calculated based on the host site’s NEM tariff and retail rate, and payments are credited to offset the electricity bills of each member directly by the utility (assuming the utility is billing the customers for supply). These allocations are governed by a Group Net Metering Agreement between the host customer-generator and group members, which is part of the registration process overseen by the Public Utilities Commission.

Note that larger systems (up to 1,000 kilowatts in size) actually have to register as group hosts in order to qualify for net metering in the event that the customer-generator exports more than 80 percent of the power produced onsite to the distribution grid. Additionally, if the electricity exported from larger systems exceeds the total electricity usage of the group on an annual basis, the credit for the residual amount (e.g., electricity exported in excess of the group’s total usage) is re-calculated based on their utility’s avoided cost of electricity supply. This rate is lower than the NEM credit based on the customer-generator’s retail rate, and results in a downward payment adjustment issued by the utility to the host customer. Residential systems under 15 kilowatts, however, are not subject to this adjustment.

Most recently, a Low-Moderate Income (LMI) Community Solar Project option has been implemented under Group Net Metering. The program currently provides an incentive of 3 cents per kWh (dropping down to 2.5 cents after July 2021) in addition to the host site’s NEM credits, and solar systems may be either rooftop or ground-mounted systems. To qualify, groups must include at least five residential customers, a majority of which are at or below 300 percent of the federal poverty guidelines, and non-residential customers cannot account for more than 15 percent of the total projected load in the group.

Lastly, all group hosts (except for residential systems under 15 kilowatts) must file an annual report with the Public Utilities Commission and their utility that includes the annual load of the host and members, annual total and net surplus generation of the host site system, and additional information for Low-Moderate Income Community Solar Projects.

In addition to NEM credits, all customer-generators have the option of selling the Renewable Energy Certificates (RECs) produced by their systems. This can provide an additional revenue stream to customer-generators, but requires a separate REC meter, registration and ongoing reporting requirement.

Alternatively, the Public Utilities Commission estimates the RECs that could be produced by all customer-generators who do not separately meter and sell their RECs and lowers the Renewable Portfolio Standard procurement requirements for all load-serving entities by an equivalent amount.

Comparison of Utility “Standard” and “Alternative” Net Energy Metering Tariffs

The tables below compare the two tariff structures, which offer different credits to customers depending on the size of their installed system:

Net Energy Metering (NEM) Credit on Net Monthly Exports to Grid

	NEM 1.0 <i>“Standard NEM”</i> <i>Offered prior to 9/1/2017</i>	NEM 2.0 <i>“Alternative NEM”</i> <i>Effective 9/1/2017</i>
Large Systems <i>100 Kilowatts to 1 Megawatt</i>	Full credit (at the customer’s retail rate) for electricity supply <u>only</u>	
Small Systems <i>≤ 100 Kilowatts</i>	Full credit for electricity supply, distribution, transmission, System Benefits, Stranded Cost & Storm Recovery charges	Full credit for electricity supply and transmission; 25% credit for distribution & no credit for other charges

As shown in the table above, levels of compensation for small customer-generators (with systems up to 100 kilowatts) were lowered, such that these customers no longer receive full compensation on their distribution rate component or several other small charges (e.g., the System Benefits, Stranded Cost and Storm Recovery charges).

Additionally, the NEM 2.0 tariff modified the type of credit, and the ways credits for surplus generation are tracked and refunded, for both small and large customer generators:

- Under NEM 1.0, any surplus generation would be tracked as a kilowatt-hour (kWh) credit, which was carried forward to offset the customer’s consumption (and bill) in future months. For any kWh credits remaining on an annual basis (at the end of March each year), such customers have the option of either continuing to bank their credits to offset future usage, or to convert the

kWh credit into a monetary credit, at a rate set by the Public Utilities Commission (typically ~3-4 cents per kilowatt-hour) and to apply the amount to their account or receive a check for the amount owed.

- Under NEM 2.0, kWh credits are automatically converted into a monetary credit every month, valued at the customer's retail rate for that specific month. Customers have the option of either carrying the credit forward to offset to their electricity bill in future months or may receive the refund directly as a check.

The crediting mechanism under NEM 1.0 was relatively more advantageous for customers in one respect. Solar systems generate more power in the spring and summer months relative to other seasons; consequently, the credits that customer-generators would accrue during the summer months would offset their consumption in the winter months on a one-to-one, kWh per kWh basis. This is advantageous because winter supply rates are above summer rates on average.

In another respect, NEM 2.0 offers an advantage to customers that accrue surplus credits over the course of the year, because the surplus is calculated based on components of the customer's retail rate — which is higher than the ~3-4 cents per kilowatt-hour value that is applied to convert NEM 1.0 kWh credits into a monetary credit whenever customers elect to cash-out their surplus.

These changes are summarized in the table below, and apply to all customer-generators regardless of system size:

<p>NEM 1.0</p> <p><i>"Standard NEM"</i></p> <p><i>Offered prior to 9/1/2017</i></p>	<p>NEM 2.0</p> <p><i>"Alternative NEM"</i></p> <p><i>Effective 9/1/2017</i></p>
<p>kWh credit carried forward.</p> <p>May be refunded at a rate calculated by the Public Utilities Commission (typically ~3-4¢ per kWh).</p>	<p>kWh converted to monetary credit automatically each month.</p> <p>Monetary credit carried forward as a bill credit or refundable.</p>

Additional details may be found in the Eversource, Liberty Utilities and Unitil tariffs and the Public Utilities Commission website:

- [Eversource Tariffs](#)
- [Unitil Tariffs](#)
- [Liberty Utilities Tariffs](#)
- [PUC overview of Net Metering](#)
- [PUC graphic explanation of NEM 1.0 vs. NEM 2.0.](#)

Net Energy Metering Systems by Utility Territory

According to the most recent [Energy Information Agency \(EIA\) Form 861m data](#), there are about 11,000 customer-generators taking service under Net Energy Metering tariffs in New Hampshire,

with a cumulative installed capacity of approximately 140 megawatts (in terms of nameplate capacity in alternating current, or “AC”). Estimated numbers of customer-generators and installed capacity by technology are summarized below:

- Solar photovoltaics: ~120 megawatts (MW) and 10,760 customer-generators; note that:
 - Group Net Metering accounts for an additional ~1.5 MW serving 56 customers; and
 - Sixteen residential customers, in addition to solar photovoltaics, also have battery storage systems with a cumulative capacity of 175 kilowatts (an average size of ~11 kilowatts per customer).
- Onsite wind: 412 kilowatts (kW) and 72 customer-generators.
- “Other” technologies (presumably, small hydro or qualifying combined heat and power systems, or “CHP”): ~17.5 megawatts (MW) and 55 customer-generators.

The table below provides the number of customer-generators in each distribution utility territory:

Number of Net Metered Customer-Generators by Technology

	Customer-Generators by Technology				Subsets of Solar PV Customers	
	Total	Wind	Other (CHP or Hydro)	Solar PV	Group Net Metering	Battery Storage
Eversource	7,949	37	52	7,860	21	0
Unitil	1,066	3	1	1,062	0	0
Liberty Utilities	724	1	0	723	22	16
NHEC	1,204	31	2	1,171	13	0
Total	10,943	72	55	10,816	56	16

The number of customer-generators by customer class with onsite solar photovoltaic systems, total installed capacity, and average solar system size in each utility territory are provided for reference in the tables below.

Note that these tables do not include Group Net Metered systems and participating customers within groups and reflect only installed solar photovoltaic system capacity (i.e., exclusive of onsite battery storage capacity).

Net Metered Solar Photovoltaic Systems: Number of Customer-Generators

	Residential	Commercial	Industrial	Total Customer-Generators
Eversource	7,195	630	35	7,860
Unitil	973	61	6	1040
Liberty Utilities	633	77	0	710
NH Electric Coop	1,065	81	4	1,150
Total	9,866	849	45	10,760

Net Metered Solar Photovoltaic Systems: Total Installed Capacity (MW-AC)

	Residential	Commercial	Industrial	Total Installed Capacity (MW-AC)
Eversource	54.15	29.66	5.09	88.91
Unitil	7.40	2.30	0.73	10.43
Liberty Utilities	4.78	5.12	0.00	9.90
NH Electric Coop	7.61	2.46	0.60	10.66
Total	73.94	39.54	6.42	119.90

Net Metered Solar Photovoltaic Systems: Average System Size (kW-AC)

	Residential	Commercial	Industrial	Average System Size (kW-AC)
Eversource	7.5	47.1	145.5	66.7
Unitil	7.6	37.8	121.2	55.5
Liberty Utilities	7.6	66.5	N/A	24.7
NH Electric Coop	7.1	30.3	149.0	62.2

Average	7.5	45.4	138.6	52.3
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Attachment 6: Durham Community Power Net Metering, Group Net Metering and Low-Moderate Income Solar Project Opportunities

Please refer to Attachment 5: [Overview of Utility Net Metering Tariffs](#) as context for this section.

[RSA 362-A:9,II](#) grants Community Power programs broad statutory authority to offer customer-generators new supply rates and terms for the generation supply component of Net Energy Metering (NEM). The relevant statutory authority is quoted in full below:

“Competitive electricity suppliers registered under RSA 374-F:7 and municipal or county aggregators under RSA 53-E 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.”

Durham Community Power intends to offer a NEM generation rate and terms to customers with onsite renewable generation eligible for net metering from Eversource and NH Electric Cooperative. Note that any non-supply related components of the Net Energy Metering tariff (e.g., credits for transmission and distribution) will continue to be provided to customer-generators directly by their utility.

How Durham Community Power calculates, accounts for and provides NEM credits to participating customer-generators for the different types of eligible system sizes, customer types and group configurations will have a number of important financial and practical implications for the program and customers in the Town.

Durham Community Power also anticipates encountering practical challenges of an operational nature in administering net metering and group net metering programs. This is partly because net energy metering continues to evolve in response to new policy and regulatory requirements, and the day-to-day processes that govern the coordination between the program, participating customers and Eversource and NH Electric Cooperative are subject to refinement and change over time.

In particular, Durham Community Power will be one of the first default aggregation programs to launch in New Hampshire, and the process of transferring significant numbers of NEM customers may cause unanticipated issues due to the metering, billing and data management requirements of this subset of customers. Durham Community Power will maintain close coordination with Eversource and NH Electric Cooperative to expeditiously resolve any such issues that may occur.

For example, Durham Community Power may decide to separately issue supply bills to customers that have installed systems after September 2017.

The advantage in dual-billing this subset of customers stems from what is essentially an accounting irregularity in how utility billing systems currently treats customer-generators taking service under

the NEM 1.0 tariff, which applies to systems installed before September 2017, versus the NEM 2.0 tariff, which applies to all systems installed after that date. As context:

- The cumulative surplus generation exports of net metered customer-generators will decrease the amount of electricity that Durham Community Power will have to purchase from the regional power market to supply other customers in the program. The surplus generation from both NEM 1.0 and NEM 2.0 customer-generators is tracked and netted out from the program's wholesale load obligations by [UTILITY] for this purpose.
- However, for the purpose of netting out of the program's Renewable Portfolio Standard (RPS) compliance requirements, the surplus generation from NEM 1.0 customers is tracked and accounted for differently than it is for NEM 2.0 customers:
 - Surplus generation from NEM 1.0 customers is tracked as a kWh credit that is carried forward to offset the customer's future electricity supply requirements; these kWh credits will be counted as an offset that decreases the total electricity supplied by the program to retail customers in aggregate — which lowers the program's RPS compliance obligation.
 - Surplus generation from NEM 2.0 customers is tracked as a monetary credit that is carried forward to offset the customer's future electricity bills; even though the monetary credit is calculated each month based on every customer's kWh surplus generation, the monetary credit is treated as a re-sale or delivery of power generated by NEM 2.0 customer and provided to other participating customers through the program — it is not treated, in other words, as an offset that decreases the total electricity supplied by program to retail customers in aggregate — and therefore does not lower RPS compliance obligations in the same way.

The practical consequence of this accounting treatment is that Durham Community Power would have to purchase Renewable Energy Certificates for the amount of surplus generation supplied by NEM 2.0 customer-generators (but not NEM 1.0 customer-generators) in the same way as if the program had imported that amount of electricity from the regional wholesale market.

- Taking on the responsibility of billing this subset of NEM 2.0 customers directly may allow Durham Community Power to track and account for the impact of their surplus generation in ways that lower the program's RPS compliance obligations and costs. Specifically, the program could credit customers currently on the utility's NEM 2.0 tariff in the same way that NEM 1.0 customers are credited (i.e., using kWh credits to track surplus generation on the supply portion of the bill). Note that RSA 362-A:9,II explicitly grants Community Power programs the flexibility to offer net metered customers either:
 - A *"credit, as an offset to supply"* for their surplus generation, which is equivalent to the NEM 1.0 tariff accounting; or
 - To *"purchase the generation output exported"*, which is equivalent to how the NEM 2.0 tariff tracks surplus generation.

Exercising the first option listed above, by offering NEM 2.0 customers a kWh credit tracked as an offset to supply, would allow Durham Community Power to harmonize the accounting treatment of NEM 1.0 and 2.0 surplus generation for the purpose of program RPS compliance reporting. This would lower program rates and is an option that the program may therefore find cost-effective to implement.

Additionally, certain customer-generators currently receiving IRS Form 1099 taxable income from monetary credits paid out by their utility under NEM 2.0 tariff may benefit financially from receiving kWh credits for the supply portion of their monthly surplus generation instead.

While dual billing is typically avoided — as it is less convenient for most customers to receive a separate bill from their utility and supplier — customers with onsite generation systems tend to be highly informed on energy issues and respond positively to more active engagement with both their utility and supplier.

Consequently, dual billing may enhance customer satisfaction, awareness and ongoing participation in the program for customer-generators. Furthermore, dual billing could be done electronically, which is more convenient for the customer and less costly for the program than sending paper bills.

Furthermore, Durham Community Power may be able to create additional value for customer-generators through a combination of dual billing, assistance with metering upgrades and time-varying rate structures. For example:

- Many customer-generators with solar systems may benefit from local programs that help them reduce their full energy bill costs;
- Providing the customer with a separate supply-only bill would allow Durham Community Power to also offer a time-varying rate (which may not otherwise be available through Eversource and NH Electric Cooperative's billing system);
- Upgrading to an interval meter (if the customer does not have one) and installing onsite battery storage, combined with a time-varying rate, may enable the customer-generator to further lower their overall bill by shifting their pattern of electricity usage at times of high-power prices and constrained generation and transmission capacity. This could also help to manage and lower the program's electricity supply costs in aggregate as well, and thus benefits all participating customers.

Similarly, Durham Community Power may be able to streamline the process and cost of installing REC production meters, registering customer-generators and purchasing their RECs for the onsite power generated to satisfy part of the program's overall RPS compliance requirements. This would allow the program to source RECs locally and would provide an additional source of revenue for customer-generators in the Town.

Durham Community Power also intends to evaluate ways to enhance the value of the NEM credits that customers receive overall, from both the program and Eversource and NH Electric Cooperative. For example, customer-generators may benefit by becoming hosts in Group Net Metering, including by establishing a Low-Moderate Income Solar Project group. The program may be able to streamline the process required to do so, which entails:

- Matching customers interested in becoming members with prospective group hosts;
- Executing a Group Net Metering Agreement together;
- Registering the group with the Public Utilities Commission and Eversource or NH Electric Cooperative; and
- Thereafter filing annual compliance reports.

Lastly, NEM tariffs are subject to revision and Durham Community Power, through the Coalition, intends to work with Eversource and NH Electric Cooperative, participate in Public Utilities

Commission proceedings and engage at the Legislature on issues that impact how the tariffs evolve going forward.

Customers are increasingly adopting new energy technologies and expect to be offered rates and services that provide them with new choices and fair compensation based on their investment; the program's ability to assist customers in these ways is heavily dependent on how state policies and utility regulations evolve over time.

Durham Community Power will seek to represent the interests of our community and customers in these matters.

Attachment 7: Durham's Public Planning Process

The following ~~is a draft schedule of~~ key activities ~~taking~~ have taken place or are planned in the Public Planning phase for Durham Community Power.

January 2022:

- Jan 4: Durham Energy Committee (DEC) meeting- ~~We will devote most of the meeting to discussing~~ Discussed the draft EAP, and ~~will~~ incorporated comments/revisions as appropriate.
- Jan 7: In the Town's Friday Update newsletter, re-~~pos~~ ed the notice for the 1-10-2022 Clean Energy NH (CENH) webinar providing an introduction to the Community Power concept and CPCNH, along with a ZOOM link.
- Jan 10: CENH webinar with Lisa Sweet and Henry Herndon (~~we consider this to be a~~ This was a good introductory presentation prior to ~~our providing our own~~ Durham's first public hearing/information session).
- Jan 19: Durham's EAP submitted to CPCNH for technical review.
- Feb 26: Durham EAP accepted by CPC-NH reviewers, questions about relationship to CPCNH clarified.

Spring – Fall 2022:

- ~~April: Publicity for Earth Day includes information about Community Power for Durham.~~
- April 23: Earth Day celebration in downtown includes Durham Energy Committee table with discussion points and information about Community Power ~~effort~~.
- May 6: Friday Updates Town Newsletter publicized s NH Network webinar
- ~~June 1: Rehearsal for Town information session held for Energy Committee~~
- June 3: Postcards mailed to all Durham residents announcing Public Information Sessions about Community Power on June 15 and July 6th at Town Hall, via DCAT ~~p~~ Public access cable, and Zoom meeting registration. Card also contains a link to an online survey for Durham residents to express their opinions about Community Power plans.
- June 4: Durham Day ~~also~~ had an information table for Durham Energy Committee staffed to discuss Community Power and hand out flyers with information and public information session dates.
- June 15: First Public Information Session held at Town Hall, recorded and available for viewing online.
- July 6: Second Public Information session at Town Hall.
- June – July: Continued research on business and financial related questions about Community Power, CPC-NH, and Durham's relationship with CPC-NH ~~that are of interest and concern to~~ for Town Council members.

- October 3: ~~Presentation of EAP to Town Council for approval~~ EAP was approved by the Town Council.

January 2023:

- January 6: Updated EAP discussed by Town Council.
- January 20: Revised Update of the EAP presented to and approved by the Town Council

Attachment 8: Town Policy Excerpts

Durham Master Plan – Vision: In 2025 and beyond, the Town of Durham, along with commercial property owners and homeowners, will continue to realize cost savings while reducing carbon emissions, thereby increasing the community’s resiliency and sustainability relative to energy use. [Durham Master Plan, 2015, Energy Chapter, <https://www.ci.durham.nh.us/planning/master-plan-2015>]

Global Covenant of Mayors -- On January 13, 2021, Durham joined the Global Covenant of Mayors, a movement of more than 10,000 cities and local governments, from 6 continents and 138 countries, representing more than 800 million people intent on reducing our environmental impact upon the globe.

By 2030, Global Covenant cities and local governments could account for 2.3 billion tons of CO₂e annual emissions reduction, matching yearly passenger road emissions from the U.S., China, France, Mexico, Russia, and Argentina combined.

By joining GCoM, Durham has pledged to develop, adopt, use, and regularly report on the following:

- A community-scale GHG emission inventory, following the recommended guidance;
- An assessment of climate risks and vulnerabilities;
- Ambitious, measurable and time-bound target(s) to reduce/avoid GHG emissions;
- Ambitious climate change adaptation vision and goals, based on quantified scientific evidence when possible, to increase local resilience to climate change;
- An ambitious and just goal to improve access to secure, sustainable and affordable energy; and
- A formally adopted plan(s) addressing climate change mitigation / low emission development, climate resilience and adaptation, and access to sustainable energy.

Thanks to a partnership with UNH, Durham is already well on the way to fulfilling this commitment. Over the last several years, UNH Sustainability Fellows have undertaken research to meet our commitment. [Durham Energy Committee home page, https://www.ci.durham.nh.us/boc_energy]

Attachment 9: Abbreviations

<u>Acronym</u>	<u>Meaning</u>
AC	Alternating Current (electric current that reverses direction many times a second at regular intervals; the N. American standard for power supply is 60 Hertz)
ACP	Alternative Compliance Payment (under the NH Renewable Portfolio Standard)
CEPS	Competitive Electric Power Suppliers
CHP	Combined Heat and Power
CPA	Community Power Aggregation
CPCNH	Community Power Coalition of New Hampshire
EAC	Electric Aggregation Committee
EAP	Electric Aggregation Plan
ISO-NE	Independent System Operator New England (the wholesale electricity market operator)
KW	Kilowatt (a measure of electrical capacity, equivalent to 1,000 watts of power)
kWh	Kilowatt-hour (a measure of electrical energy, equivalent to using or producing 1,000 watts for 1 hour, and typically used to refer to customer generation or onsite usage)
MW	Megawatt (a measure of electrical capacity, equivalent to 1,000,000 watts of power)
MWh	Megawatt-hour (a measure of electrical energy, equivalent to using or producing 1,000,000 watts for 1 hour, and typically used in reference to power plants or large aggregations of customers)
NEM	Net Energy Metering (tariffs that provide compensation for customer-generators)
NEPOOL GIS	The New England Power Pool Generation Information System (which issues and tracks Renewable Energy Credits)
NHEC	New Hampshire Electric Co-Op (a member-owned electric distribution cooperative)
NHPUC	New Hampshire Public Utilities Commission (which regulates NH's investor-owned electric distribution utilities: Eversource, Unitil and Liberty Utilities)
PV	Solar Photovoltaics
REC	Renewable Energy Credit (under the NH Renewable Portfolio Standard)
RPS	New Hampshire's Renewable Portfolio Standard (authorized under RSA 362-F)
RSA	Revised Statutes Annotated (refers to the codified state law of New Hampshire)

Attachment 10: How Load Serving Entity Services will be Implemented

Durham Community Power will implement Load Serving Entity (LSE) services, for the purpose of procuring or selling electricity on behalf of customers participating in the aggregation.

This plan assumes, but does not require, that the Town will participate fully in and rely on the services provided through the Community Power Coalition of New Hampshire (CPCNH) for the purposes of implementing and operating Durham Community Power.

The Role & Responsibility of Load Serving Entities

A Load Serving Entity (LSE) is an entity that has registered with ISO New England (ISO-NE, the nonprofit regional wholesale electricity market operator) as a market participant and assumes responsibility for securing and selling electric energy and related services to serve the demand of retail customers at the distribution level (i.e., homes and businesses).

As context, every retail customer in New Hampshire (and across New England) is assigned to a specific Load Serving Entity at all times:

- Customers on utility default service are periodically re-assigned to whichever Competitive Supplier has won the utility's most recent auction or the utility as LSE. Refer to Attachment 4 for an overview of utility default procurement solicitations.
- Similarly, customers are assigned to a different Load Serving Entity whenever they are transferred to CPA service on an opt-out default basis, choose to opt-in to take service from the CPA, or switch to a Competitive Supplier of their choosing.

Consequently, all Competitive Suppliers and Community Power Aggregators (CPAs) in New Hampshire are required to either:

1. Register as a Load Serving Entity with ISO-NE; or
2. Contract with a third-party that has agreed to be the Load Serving Entity responsible for the Competitive Supplier's or CPA's customers.

To ensure that customers receive firm power supply, there are a variety of services that need to be performed and electrical products that must be procured or otherwise provided. The required products and services are referred to as "all requirements energy" (or alternatively, "full requirements service").

The role of Load Serving Entities is to provide, arrange for, or otherwise pay for the cost of providing all requirements energy to customers. The majority of these requirements are defined by the ISO-NE wholesale market operator, which is subject to Federal oversight, but certain requirements are defined by the state in which the LSE registers to serve customers (Renewable Portfolio Standard requirements, for example).

In New Hampshire, full-requirements energy is defined as the provision or cost of (1) electrical energy, capacity, and reserves (including transmission and distribution losses); (2) ancillary services, congestion management, and transmission services (to the extent not already provided by the customer's utility); (3) the costs associated with complying with New Hampshire's Renewable Portfolio Standard (i.e., the cost of purchasing Renewable Energy Credits or, if an insufficient number of credits is procured, the cost of Alternative Compliance Payments, as detailed in

Attachment 3); and (4) other services or products necessary to provide firm power supply to customers (i.e., because the definition and requirements of the above products and services are subject to change over time).

Each of the above products and services is procured, provided, and accounted for in different ways, through market mechanisms and regulated processes that have been designed to accommodate the unique characteristics of the product or service in question.

Given the complex and capital-intensive nature of providing all requirements electricity to customers, Load Serving Entities are subject to significant state and Federal oversight, in terms of registration, reporting, and financial security requirements.

The web pages below provide current information regarding Load Serving Entity registration, financial security, and renewal requirements to operate in ISO-NE and New Hampshire:

- ISO-NE: [New Participant Registration Instructions](#)
- NH PUC: [Forms for Competitive Electric Power Suppliers and Electric Load Aggregators](#)
- Eversource: [Electric Information for Suppliers & Aggregators](#)
- Unitil: [Energy Supplier Resources](#)
- Liberty Utilities: [Become a Liberty Utilities Approved Supplier](#)
- New Hampshire Electric Cooperative: [Supplier Information](#)

Responsibilities of the Community Power Coalition of New Hampshire (CPCNH)

The Town currently anticipates that it will contract with CPCNH, as an all-requirements joint powers agency, for the provision of LSE services, all requirements energy supply and all other energy services required to implement and operate Durham Community Power.

CPCNH Competitive Solicitation for Comprehensive Services and Credit Support

On behalf of the Town and CPCNH's eighteen other Member communities, each of which are in various stages of authorizing Community Power Aggregations, CPCNH issued a Request for Proposals (RFP) for Comprehensive Services and Credit Support on April 25, 2022 and is currently conducting a solicitation process *"to select a qualified entity or group of entities to provide comprehensive services and credit support to enable CPCNH to develop, finance, launch, and operate of Community Power Aggregation (CPA) programs."*¹ As context:

- For an overview of CPCNH's authorities as a Joint Powers Agency, the RFP, proposal evaluation and contracting process, and the process by which CPCNH's Board of Directors and participating Member communities, including the Town, plan to draft and adopt enabling agreements, contracts and policies (such as the Energy Risk Management and Financial Reserves policies) refer to "Responsibilities of the Community Power Coalition of New Hampshire (CPCNH)" in Attachment 10: Customer Data Protection Plan below.
- CPCNH's RFP is primarily based upon the solicitation and contracting strategy pioneered by the [Redwood Coast Energy Authority \(RCEA\)](#), a CPA Joint Powers Authority in California that is

¹ CPCNH's Request for Proposals for Comprehensive Services and Credit Support, and additional supporting reference documentation, including the draft Business Plan for CPCNH, are posted online here: <https://www.cpcnh.org/solicitations>.

similar in size to CPCNH and which successfully contracted for comprehensive services and credit support (inclusive of LSE services) on an at-risk, deferred compensation basis.

- RCEA subsequently launched CPA program service and began providing LSE services and all-requirements supply to CPA customers in 2017 and has operated continuously while accruing financial reserves and enabling numerous local programs and new project developments.
- The three Professional Services Agreements that RCEA negotiated and executed subsequent to their RFP process provided (1) LSE and portfolio risk management services and credit support, (2) retail data management, billing, and customer care services, and (3) various support services (e.g., administration, marketing, etc.). All three contracts are available for review [online here](#).
- Subsequent CPA Joint Powers Agencies have employed similar solicitation and contracting strategies in order to successfully contract for and implement LSE and portfolio management services for participating CPA customers.
- CPCNH previously issued a Request for Information for Comprehensive Services and Credit Support in December 2021 and received numerous submissions from well-established third-party vendors that provide LSE services, portfolio management services and credit support in response. (CPCNH's Board of Directors has designated the responses as confidential due to fact that the competitive solicitation is ongoing.)²

The scope of operational services requested under CPCNH's RFP is to broadly "*provide all required services and credit support necessary to operate the agency and supply all-requirements electricity to CPA customers*". The specific scope of operational functions requested in CPCNH's RFP is provided below:

1. *Retail Data Management and Billing Services*
 - a. *Utility Electronic Data Interchange (EDI)*
 - b. *Customer Data Validation and Error Resolution Management*
 - c. *Billing Calculations*
 - d. *Utility Payment Receipt*
 - e. *Revenue Oversight and Tracking*
2. *Retail Customer Solutions*
 - a. *Customer and Program Analytics and Insights*
 - b. *Rate Design Development, Pricing and Product Structuring*
 - c. *Grid Edge Enablement and Portfolio Integrations*
 - d. *Key Account Relationship Management*
 - e. *Inbound and Outbound Call Center Operations*
 - f. *Digital Engagement and Orchestration*
3. *Portfolio Risk Management Services*
 - a. *Energy Portfolio Planning and Development*
 - b. *Contract Valuation and Procurement*
 - c. *Deal Capture, Contract Management and Counterparty Monitoring*
 - d. *Trading, Position Management and Reporting*

² CPCNH's Request for Information for Comprehensive Services and Credit Support is available online at: <https://www.cpcnh.org/solicitations>

- e. *Forecasting, Scheduling and Settlements*
- f. *ISO shadow settlements and dispute resolution*
- g. *ISO monitoring, stakeholder processes, collateral posting and onboarding support*
- 4. *Banking and Financial Services*
 - a. *Credit Support*
 - b. *Secure Revenue Account Administration*
 - c. *Accounting Support and Controls*
 - d. *Financial Statement Setup and Review*
 - e. *Revenue Forecasting and Budgeting*
 - f. *Invoice Validation*
- 5. *Enterprise Data Management: to support the development of an in-house central repository of customer and other data for use by CPCNH staff and authorized third parties for the purpose of enabling research and development of new energy services.*
- 6. *Additional Services: respondents should provide additional descriptions of services not provided for above.*

CPCNH Proposal Evaluation Process and Contracting Timeline

As detailed in Attachment 10, CPCNH's Risk Management Committee is responsible for evaluating, ranking, and scoring proposals and recommending an award to the Board of Directors.

To ensure that the committee fully evaluates proposals to provide LSE and portfolio management services, CPCNH has contracted with independent experts with domain expertise in:

- Managing and overseeing power supply portfolios and LSE services for an operational CPA Joint Power Agency;
- Evaluating proposals, interviewing proposers, and recommending an award for LSE and portfolio management services on behalf of a CPA Joint Power Agency that subsequently launched CPA program service, has operated continuously since 2018, and recently gained an industry-first "A" credit rating from S&P Global Ratings on the basis of its fiscal discipline and approach to energy portfolio risk management; and/or
- Working for an established publicly owned nonprofit enterprise that maintains three operational control centers to support 24/7/365 operations across multiple ISO/RTO markets in order to provide LSE and portfolio management services to substantial numbers of public and private sector clients that serve retail end-use customers.

CPCNH expects to conclude the RFP process, enter into contract negotiations in July-August, and execute contracts to provide comprehensive services and credit support (inclusive of LSE services) in August to September 2022.

Thereafter, CPCNH's Board of Directors expects to finalize and approve the agency's Cost Sharing Agreement and Energy Risk Management and Financial Reserves policies, which Durham's appointed Directors expect to provide to the Town Council for approval between October – December 2022.

At this point, the Town may contract for and authorize CPCNH to provide comprehensive services and credit support (inclusive of LSE services) to implement and operate Durham Community Power.

Responsibilities of the Town of Durham

The Town expects that CPCNH's solicitation and contracting strategy will be successful, and that CPCNH and the third-party contractors contracted by CPCNH will implement LSE services and all other services required to launch and operate Durham Community Power.

Depending on the result of CPCNH's solicitation and contract negotiation process, LSE services may be implemented as follows:

- CPCNH may contract directly for LSE services with a third-party that is registered or will register with ISO-NE as a market participant and Load Serving Entity, satisfies all applicable financial security and other registration requirements with ISO-NE, the Commission, and NH's distribution utilities, and has contractually agreed to assume responsibility for providing all requirements energy on behalf of Durham Community Power's customers.

Typically, such a third-party would additionally provide portfolio management services and credit support and assist CPCNH in structuring and maintaining a portfolio of physical and financial contracts to provide all requirements energy to participating customers. At a certain future point, CPCNH may be positioned to register with NEPOOL and ISO-NE as a market participant and Load Serving Entity directly.³

This implementation option would essentially replicate the same approach and structure employed by the New Hampshire Electric Cooperative, which actively manages an all-requirements energy portfolio, accrues financial reserves, and provides LSE services for default service customers.

Additionally, note that the Town of Hanover (whose Member director and alternate director are both participating on CPCNH's Risk Management Committee and proposal evaluation) is already a market participant and Load Serving Entity for the Town's load obligations.

- CPCNH may alternatively contract with one or more Competitive Electric Power Suppliers to provide LSE services and all requirements electricity to customers at a pre-specified rate for a set length of time. Under this arrangement, the Competitive Supplier would either be the designated Load Serving Entity or would contract with a third-party that has agreed to be the Load Serving Entity responsible for the CPA's customers.

This implementation option would essentially replicate the same approach and structure employed by NH's regulated distribution utilities (Eversource, Unitil and Liberty Utilities), under which customers are periodically re-assigned to whichever Competitive Suppliers have won the utilities' default service solicitations. Refer to Attachment 4 for an overview of utility default procurement solicitations.

- CPCNH may also propose a combination of the above approaches for the Town's consideration.

In the event that the Town does not contract with CPCNH to provide LSE and other services to Durham Community Power, then the Town may contract to implement LSE services independently, either with a third-party LSE acting as the Town's agent or with a Competitive Electric Power Supplier (CEPS) that contracts to provide LSE services for customers taking service from Durham Community Power.

³ Refer to CPCNH's draft Business Plan for further details, available under RFP Reference Materials online at: <https://www.cpcnh.org/solicitations>

The Town will ensure that contracts entered into provide for the implementation of LSE services and full requirement energy supply for customers participating in Durham Community Power.

Attachment 11: Customer Data Protection Plan

Durham Community Power will protect and maintain the confidentiality of Individual Customer Data in compliance with its obligations as a Service Provider under RSA Chapter 363 (RSA 363:38 and RSA 363.37 (*“privacy policies for individual customer data; duties and responsibilities of service providers and definitions”*) and other applicable statutes and Public Utilities Commission rules.

Individual Customer Data (ICD) includes information that is collected over the course of providing energy services to customers participating in Durham Community Power and that, singly or in combination, can be used to identify specific customers, including: individual customer names, service addresses, billing addresses, telephone numbers, account numbers, electricity consumption data, and payment, financial, banking, and credit information.

As described herein, the Town of Durham is responsible for ensuring that reasonable security procedures and practices are implemented and maintained to protect the confidentiality of Individual Customer Data from unauthorized access, destruction, modification, disclosure, or use.

This plan assumes, but does not require, that the Town will participate fully in the Community Power Coalition of New Hampshire (CPCNH) for the purposes of implementing and operating Durham Community Power.

Responsibilities of the Community Power Coalition of New Hampshire (CPCNH)

CPCNH is a Joint Powers Agency authorized under RSA 53-A (*“Agreements Between Governments: Joint Exercise of Powers”*) and RSA 53-E:3 (*“Municipality and County Authorities”*). CPCNH’s Joint Powers Agreement expressly authorizes the agency to:⁴

- “[C]omply with orders, tariffs, and agreements for the establishment and implementation of community power aggregations and other energy related programs”;
- “Make and enter into contracts” and “[m]ake and enter into service agreements relating to the provision of services necessary to plan, implement, operate, and administer CPCNH’s affairs”; and
- “[D]o all acts permitted... as well as any act necessary, consistent with New Hampshire law to fulfill the purposes” set forth under the agreement, which include assisting “member municipalities and counties in complying with the provisions of NH RSA 53-E in developing and implementing ... Community Power Aggregations”.

CPCNH has begun the process of soliciting and hiring third-parties to provide comprehensive services and credit support to launch Member CPA programs, and is drafting various related enabling agreements, policies, and internal protocols necessary to do so.

CPCNH Request for Proposals for Comprehensive Services and Credit Support

CPCNH issued a Request for Proposals for Comprehensive Services and Credit Support on April 25, 2022, and is currently conducting a solicitation process “to select a qualified entity or group of entities to provide comprehensive services and credit support to enable CPCNH to develop, finance,

⁴ From Section 2.3, Powers, of the By-Laws of CPCNH, found at pages 21-22 of the JPA, available here: https://www.cpcnh.org/files/ugd/202f2e_601bfada901c4a89a1c2812a0638090a.pdf, and more specifically §2.3.11, §2.3.6, §2.3.9, and §2.3 introductory paragraph. Similar language is also in the Articles of Agreement.

launch, and operate of Community Power Aggregation (CPA) programs”⁵ on behalf of CPCNH’s nineteen Member communities, each of which are in various stages of authorizing Community Power Aggregations.

For additional information regarding the use of customer data, and expected operational needs of CPCNH, refer to (1) the RFP at pp. 20-23⁶ and to (2) the RFP Addendum #2 (issued May 24, 2022), at pp. 11 in response to Questions 15.⁷ The latter is excerpted below, and provides a concise summary of CPCNH’s requirements to ensure the confidentiality of ICD:

Regarding Customer Privacy Compliance:

RSA 53-E:4, VI, requires CPAs to maintain the confidentiality of individual customer information in compliance with their obligations as service providers under RSA 363:37 (Definitions) and RSA 363:38 (“Privacy Policies for Individual Customer Data; Duties and Responsibilities of Service Providers”). RSA 53-E:7, X also requires the Public Utilities Commission to adopt Administrative Rules for CPAs governing “access to customer data” and other matters.

The selected Proposer will be expected to demonstrate physical and cybersecurity readiness sufficient to ensure customer data is held in strict confidence — e.g., through audits in accordance with the American Institute of Certified Public Accountants Statements on Standards for Attestation Engagements No. 16 (SSAE 16) Service Organizational Controls (SOC) Reports, periodic network vulnerability assessments, etc. — and will be contractually required to maintain the confidentiality of individual customer data pursuant to RSA 363:38, V(b) and applicable Public Utilities Commission rules.

As previously noted, Administrative Rules for CPAs are under development. Refer to the PUC’s Initial Proposal for CPA Administrative Rules (Chapter Puc 2200), specifically the definitions in Puc 2202.07 (“Confidential customer information”) and Puc 2202.02 (“Anonymized”), and Puc 2205.02 (“Application of Puc 2000 to CEPS When Providing Electricity Supply to CPA Customers”).

The selected Proposer, as applicable, should expect to comply with relevant portions of the PUC’s current Administrative Rules for Competitive Electric Power Suppliers and Aggregators (Chapter Puc 2000). Refer to Chapter Puc 2000, Puc 2002.09 (definition of “Confidential Customer Information”) and Puc 2004.19 (“Protection of Confidential Customer Information”), which is proposed to apply to CEPS providing electricity supply service to CPA customers pursuant to Puc 2205.02 under the PUC’s Initial Proposal for CPA Administrative Rules.

The Request for Proposals and evaluation process is being overseen by CPCNH’s Risk Management Committee, composed of CPCNH Member municipality representatives, with additional support from (1) independent experts with experience operating Community Power Aggregation Joint Powers Agencies, and (2) CPCNH’s General Counsel, DWGP, P.C., a nationally recognized law firm with substantial expertise in the Community Power and broader public power industry.

⁵ CPCNH’s Request for Proposals for Comprehensive Services and Credit Support, and additional supporting reference documentation, including the draft Business Plan for CPCNH, are posted online here: <https://www.cpcnh.org/solicitations>.

⁶ https://www.cpcnh.org/_files/ugd/202f2e_e781638c123d4cf3977358f845081313.pdf

⁷ Pages 11-12 at https://www.cpcnh.org/_files/ugd/202f2e_8ceed8824453482c902a8a0fa1ab826c.pdf.

CPCNH's Risk Management Committee will evaluate, rank, and select vendors with a proven track record of successful qualification for EDI transactions, protection of confidential customer information, including what is characterized as ICD under RSA 363, and other relevant factors.

- Refer to CPCNH's RFP at p.2 for a summary of the substantial domain expertise participating on the Risk Management Committee and proposal evaluation process.
- For example, the committee includes a Member Director who previously worked for Eversource for 26 years, where he was responsible for deploying and/or operating Eversource's Customer Information System and day to day interface with competitive electric suppliers and was most recently the Director of Eversource's Customer Center Operations.

CPCNH expects to conclude the solicitation process and execute contracts in August to September 2022.

CPCNH Enterprise Risk Management & Customer Data Policies

After CPCNH has executed service contracts, CPCNH's Board of Directors will finalize and approve the agency's Cost Sharing Agreement and Energy Risk Management and Financial Reserves policies. CPCNH's Energy Risk Management and Financial Reserves policies will be subsets of CPCNH's Enterprise Risk Management Policy, which will additionally cover relevant elements of cybersecurity and data confidentiality requirements and other topics.

- CPCNH's Joint Powers Agreement requires CPCNH's Risk Management Committee to draft and recommend the Enterprise Risk Management Policy for consideration and adoption of CPCNH's Board of Directors on or before October 1, 2022.⁸
- Between October and December 2022, Durham's appointed Directors are expected to provide CPCNH's Cost Sharing Agreement and Energy Risk Management and Financial Reserves policies to the Town Council for approval between October – December 2022.
- At this point, the Town will contract for and authorize CPCNH to provide specific services on behalf of Durham Community Power.

CPCNH's Board of Directors has been recently presented with a plan to develop additional specific policies and CPCNH's Treasurer has prepared a budget to allocate sufficient funding to support the drafting and review process over the summer and fall. Two relevant such policies are listed below:

- Record Retention & Disposal Policy: to provide a process that ensures compliance with the proper retention, protection, and timely destruction of all records created or obtained by, or otherwise in the possession and control of, CPCNH, consistent with all legal requirements.
- Data Security and Privacy Policy: to define the specific goals, requirements, and controls necessary to safeguard the confidentiality, integrity, and availability of confidential information.

CPCNH Requirements to Access and Use of Individual Customer Data

In CPCNH's capacity as a service provider to the Town, the agency and third parties contracted through CPCNH to provide services to Durham Community Power will need to access and use ICD

⁸ CPCNH's Risk Management Committee is also responsible for (1) reviewing major risk exposures and monitoring the steps taken to control risk exposures and (2) commissioning an independent agent to conduct and deliver an evaluation of the operational performance of the agency relative to the Enterprise Risk Management Policy every two years (starting three years after the commencement of CPA service, and as otherwise requested by the Board).

for operational needs and for the research, development, and implementation of new rate structures and tariffs, demand response, customer assistance, energy management, or energy efficiency programs on behalf of Durham Community Power.

Third parties under contract to CPCNH that may require access to ICD on behalf of Durham Community Power may include CEPS (Competitive Electric Power Suppliers) functioning as Load Serving Entities (LSEs) for the supply of all requirements energy, or other third-party vendors providing Load Serving Entity (LSE) services on behalf of CPCNH, as well as portfolio management, Electronic Data Interchange (EDI), Customer Information System (CIS), billing, accounting, and related services, and other contractors and academic institutions under contract to support the research and development of potential new energy services to offer to customers participating in Durham Community Power.

Specific types of ICD that Durham Community Power, CPCNH, and third parties under contract are expected to receive and possess include:

- Name, address, account number, and other information about electric customers within the Town for purposes of sending required notification of Durham Community Power Commencement of Service and enrollment of customer in Durham Community Power, consistent with initially proposed Puc 2204.04, .05, and .06, as they, or equivalent rule provisions, may be adopted by the PUC and the requirements of RSA 53-E:7, III, V, and VI.
- Individual customer information used for operation of Durham Community Power, such as that in initially proposed Puc 2205.13, most of which may be accessed through the EDU EDI. The need and use for such information, and a proposed modification of this particular rule, are addressed in CPCNH's 3/14/22 Comments on the PUC's initial rule proposal for CPAs, in docket # DE 21-142⁹, and in its 3/28/22 Reply Comments.¹⁰
- Other confidential customer information that may be received or collected directly by Durham Community Power or CPCNH, or through sources other than the EDU due to customer participation in particular related programs or services, billing operations, other customer services, or that may be volunteered by customers, will likewise only be used for statutorily authorized purposes as ICD.

Ongoing collection and use of individual customer data of the types described in proposed Puc 2205.13 will be used for both:

1. **General operational needs** for retail power supply and related energy services operational needs, such as load and supply forecasting, portfolio management, billing and audit processes, and for research and development of potential new energy services to offer to customer participants; and
2. **Programmatic and customer-specific services and offerings**, such as responding to customer account queries, opt-in rates or demand side management for customers with flexible demand, distributed generation or storage, and interval meters; and other energy services that may be offered including programs for LMI participants that are qualified in

⁹ See p. 2 ¶14 and p. 4 ¶16 at: https://www.puc.nh.gov/Regulatory/Docketbk/2021/21-142/LETTERS-MEMOS-TARIFFS/21-142_2022-03-14_CPCNH_COMMENTS.PDF.

¹⁰ See p.4-11, and Comments on proposed Puc 2203.02(b)(1) on p. 13, Puc 2204.02(a)(1)-(4) on pp. 16-17, and Puc 2205.13 p. 23 https://www.puc.nh.gov/Regulatory/Docketbk/2021/21-142/LETTERS-MEMOS-TARIFFS/21-142_2022-03-28_CPCNH_OCA_CENH-COMMENTS.PDF.

the Electric Assistance Program (EAP).

In compliance with [RSA 363:38](#) and [RSA 363.37](#), CPCNH and third parties contracted through CPCNH that require access to ICD to provide services to Durham Community Power will be contractually required to:

- Implement and maintain reasonable security procedures and practices appropriate to the nature of the ICD.
- Protect ICD from unauthorized access, use, destruction, modification, or disclosure.
- Use ICD solely for primary purposes, such as: complying with the provisions of RSA 53-E:7, II; providing or billing for electrical service; meeting system, grid, or operational needs; researching, developing, and implementing new rate structures and tariffs, demand response, customer assistance, energy management, or energy efficiency programs; and for research and development of potential new energy services to offer to customer participants.
- Collect, store, use, and disclose only as much ICD as is necessary to accomplish the aforementioned primary purposes.
- Not use ICD for a secondary commercial purpose unrelated to the aforementioned primary purposes of the contract without the express consent of the customer.
- Return or permanently delete all ICD after contract termination and deliver a certificate, signed by an authorized representative, stating that all ICD has been returned or permanently deleted and that all materials based on ICD has been destroyed, as appropriate (i.e., except for copies necessary for tax, billing, or other financial purposes).

Additionally, if CPCNH contracts with one or more Competitive Suppliers to provide Load Serving Entity services to participating customers, or brokers to support operations in a capacity that would require access to ICD, then the Competitive Suppliers and/or brokers would additionally be required to comply with the requirements of Puc 2004.19 (*Protection of Confidential Customer Information*), which are excerpted below in the section “Statutory and Rule Requirements” for reference.

Responsibilities of the Town of Durham

The Town currently anticipates that it will contract for all requirements electricity supply and related energy services through CPCNH, as a joint powers agency, and that the primary acquisition and use of ICD will be through CPCNH and the vendors placed under contract to provide comprehensive services for the operation of Durham Community Power.

The Town Manager shall review and confirm that CPCNH has adequate policies, procedures and measures in place to protect confidential information and that contractual requirements consistent with the Town’s obligations to protect ICD as required under [RSA 363.37](#), [RSA 363:38](#) and [RSA 53-E:4](#), VI, and consistent with PUC rules, including Puc 2004.19 and its non-disclosure restrictions, are incorporated into any contracts with CPCNH, or any other third parties that are authorized to access ICD on behalf of the Town before executing any such contracts.

The Town expects contracts and policies to provide for:

- Third-party security assessment requirements regarding: Information Security Management;

Personnel Security; Systems Development and Maintenance; Application Security; System Security; Network Security; Data Security and Integrity; Access Control; and Vulnerability Management.

- Third-party security requirements including: (1) User Account and Access Controls to ensure that only authorized individuals have access to ICD for legitimate primary purposes under RSA 368:38, which may include the need for non-disclosure agreements; (2) Handling of Sensitive Data Protocols to protect confidential customer information from unauthorized access, use, destruction, modification, or disclosure; (3) Breach Reporting, including obligations to report a security breach as defined in RSA 359-C:19, V and required by RSA 359-C:20 and any other applicable laws, rules, or utility requirements for data breach reporting; (4) Plan for deletion and destruction ICD when it is no longer necessary to accomplish primary purposes pursuant to RSA 368:38; and (5) Prohibitions on use of ICD for a secondary commercial purpose not related to the primary purpose of vendor's contract without the express consent of the customer.
- Third-party documentation and reporting requirements regarding, as applicable: Audit Reports (e.g. SSAE 16/SOC Report); Documentation describing Control practices used to review sub-vendors; Maintenance of an Information Security Program; Training Program for Employees on Cyber Awareness; Background checks performed for all employees with access to ICD; Immediate Data Breach reporting to appropriate parties; and any material changes in Data Security practices since prior review and approval.

Lastly, in the event that the Town does not contract with CPCNH to provide energy services to Durham Community Power, then the Town will develop and adopt policies and contracts that ensure compliance with the Town's obligations as a Service Provider to protect and maintain the confidentiality of ICD under RSA 363:38, RSA 363.37 and other applicable statutes and Public Utilities Commission rules prior to directly collecting, storing, using, or disclosing any ICD or contracting with other Competitive Suppliers, brokers and/or other third-party vendors that require access to ICD.

Additional References: Statutory and Regulatory Requirements

The sections below are provided for additional reference, and summarize the different requirements that apply to (1) Community Power Aggregators and Service Providers, (2) brokers and Competitive Electric Power Suppliers (CEPS) that provide Load Serving Entity services under contract to Community Power Aggregators, and (3) access to ICT through the Multi-Use Energy Data Platform authorized under RSA 378:50-54 (if and when it becomes operational).

Statutory Requirements for Community Power Aggregators & Service Providers

Statutory requirements regarding the use of Individual Customer Data for Community Power Aggregators are summarized below:

- RSA 363:37, I defines Individual Customer Data (ICD) as *"information that is collected as part of providing electric, natural gas, water, or related services to a customer that can identify, singly or in combination, that specific customer, including the name, address, account number, quantity, characteristics, or time of consumption by the customer."*
- RSA 363:38, IV requires Service Providers to *"use reasonable security procedures and practices to protect individual customer data [ICD] from unauthorized access, use,*

destruction, modification, or disclosure.”

- RSA 53-E:4, VI provides that Community Power Aggregations (CPAs) *“shall be subject to RSA 363:38 as service providers and individual customer data shall be treated as confidential private information and shall not be subject to public disclosure under RSA 91-A”*.
 - The definition of Service Provider under RSA 363:37, II includes *“an aggregator, as defined by RSA 53-E:2, II...and any other service provider that receives individual customer data [ICD]...”*
 - RSA 53-E:2, II defines an “aggregator” in this context as *“any municipality or county that engages in aggregation of electric customers within its boundaries”*.
 - RSA 53-E:2, VI further defines “municipality” in this context as *“any Town, town, unincorporated place, or village district within the state.”*
- RSA 363:38, II requires Service Providers to: *“(a) Collect, store, use, and disclose only as much individual customer data [ICD] as is necessary to accomplish primary purposes, and (b) Use individual customer data solely for primary purposes.”*
- RSA 363:37, III defines “[p]rimary purpose” as *“the main reason for the collection, storage, use, or disclosure of individual customer data [ICD] which is limited to: (a) Providing or billing for electrical or gas service. (b) Meeting system, grid, or operational needs. (c) Researching, developing, and implementing new rate structures and tariffs, demand response, customer assistance, energy management, or energy efficiency programs.”*
- RSA 53-E:4, VI further authorizes approved Community Power Aggregations to *“use individual customer data to comply with the provisions of RSA 53-E:7, II and for research and development of potential new energy services to offer to customer participants.”*
- RSA 363:38, V(b) further makes clear that a Service Provider may disclose ICD *“to a third party for system, grid, or operational needs, or the research, development, and implementation of new rate structures and tariffs, demand response, customer assistance, energy management, or energy efficiency programs”* — provided that the Service Provider *“has required by contract that the third party implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, use, destruction, modification, or disclosure, and to prohibit the use of the data for a secondary commercial purpose not related to the primary purpose of the contract without the express consent of the customer.”*
- RSA 363:38, V(c) provides that *“[n]othing in this section shall preclude a service provider from disclosing electric, natural gas, or water consumption data required under state or federal law, or which is identified as information subject to warrant or subpoena or by an order of the commission.”*
- RSA 363:38, V(a) makes clear that ICD may be aggregated and used for *“analysis, reporting, or program management after information that identifies an individual customer has been removed.”*

Additional Requirements Specific to Brokers & Competitive Suppliers

Pursuant to Puc 2205.02 under the PUC's Initial Proposal for CPA Administrative Rules, brokers and Competitive Suppliers that are hired by municipalities to manage and operate Community Power Aggregations and provide Load Serving Entity services to participating customers must comply with the requirements of Puc 2004.19 (*Protection of Confidential Customer Information*), which is excerpted below for reference along with Puc 2002.09 (*Confidential Customer Information*).

Note that the use of the term “aggregator” throughout Puc 2004.19 below refers to brokers and does not refer to or otherwise apply to Community Power Aggregators.

As context, these requirements are part of the Commission’s Chapter Puc 2000 rules (“*Competitive Electric Power Supplier and Aggregator Rules*”), which apply to Competitive Suppliers and brokers—referred to as “CEPS” and “aggregators” below, respectively — and are expressly not applicable to “*municipalities or counties providing electricity or aggregating within the boundaries of participating municipalities under RSA 53-E*” (Community Power Aggregators) per Puc 2001.02 (*application of rules*).

Puc 2002.09 “Confidential customer information” means information that is collected as part of providing electric services to a customer that can identify, singly or in combination, that specific customer, and includes the customer name, address, and account number and the quantity, characteristics, or time of consumption by the customer, and also includes specific customer payment, financial, banking, and credit information.

...

Puc 2004.19 Protection of Confidential Customer Information.

(a) No CEPS or aggregator shall, except as permitted under (c) below or as otherwise required by law, release confidential customer information without express written authorization from the customer.

(b) A CEPS or aggregator shall implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect confidential customer information from unauthorized access, use, destruction, modification, or disclosure, and to prohibit the use of the confidential customer information for a secondary commercial purpose not related to the primary purpose of the service provided to the customer, without the express written consent of the customer.

(c) A CEPS or aggregator may disclose to a third party subject to non-disclosure restrictions confidential customer information as necessary for any one or more of the following purposes:

- (1) Billing for electric service;*
- (2) Meeting electric system, electric grid, or other operational needs;*
- (3) Implementing any one or more of the following programs:*
 - a. Demand response;*
 - b. Customer assistance;*
 - c. Energy management; and*
 - d. Energy efficiency.*

(d) For purposes of this section, the term “non-disclosure restrictions” means that the CEPS or aggregator has required by contract that the third party implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the confidential customer information from unauthorized access, use, destruction, modification, or disclosure, and to prohibit the use of the confidential customer information for a secondary commercial purpose not related to the primary purpose of the contract without the express consent of the customer.

(e) A customer granting authorization to release confidential customer information for purposes described in the terms and conditions of service shall satisfy the requirement in (a) above.

(f) A CEPS or aggregator granted agency authority shall be deemed authorized to obtain customer usage information when it has received customer authorization as described in Puc 2004.08 or Puc 2004.09.

(g) In the event of a dispute about the release of confidential customer information, including whether the information is or should be confidential, a CEPS, aggregator, or customer may file a complaint with the commission for resolution.

Additional Requirements for the Multi-Use Energy Data Platform

If and when the Multi-Use Energy Data Platform (Platform) authorized under RSA 378:50-54 becomes operational, Durham Community Power and any third-parties under contract that require access to ICD sourced from the Platform — such as CPCNH and third-parties contracted through CPCNH — will be required to comply with any Platform User Requirements, Privacy Standards, Annual Attestations, and obligations to report a security breach pursuant to terms of Settlement Agreement conditionally approved by the PUC in DE 19-197 and detailed in Exhibit C of the Agreement found in Exhibit 1B and as may be actually implemented.



TOWN OF DURHAM

8 Newmarket Road
Durham, NH 03824
Tel: 603-868-5571
Fax: 603-868-1858
www.ci.durham.nh.us

AGENDA ITEM: **# 10B** *TS*

DATE: **February 20, 2023**

COUNCIL COMMUNICATION

INITIATED BY: Public Works Department

AGENDA ITEM: SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE ADMINISTRATOR, AWARD A CONTRACT FOR THE 2023 STORMWATER ASSET MANAGEMENT GRANT PROJECT TO ENVIRONMENTAL PARTNERS GROUP OF QUINCY, MA IN THE AMOUNT OF \$65,400 AND AUTHORIZE THE TOWN ADMINISTRATOR TO SIGN ASSOCIATED DOCUMENTS?

CC PREPARED BY: April Talon, Town Engineer
Richard Reine, Director of Public Works

PRESENTED BY: April Talon, Town Engineer
Richard Reine, Director of Public Works

AGENDA DESCRIPTION:

The purpose of this Council Communication is to request the Town Council's approval to award a Contract for the 2023 Stormwater Asset Management Grant Project to Environmental Partners Group of Quincy, MA in the amount of \$65,400. This contract includes a \$30,000 grant from NHDES for the development of a Stormwater Asset Management Plan (AMP), which Durham Public Works submitted a pre-application for to the New Hampshire Department of Environmental Services (NHDES) as part of their project solicitation in June 2022. In response to the aforementioned pre-application Durham Public Works was notified that we were successful in receiving the American Rescue Plan Act (ARPA) grant for this study in the amount of \$30,000.

The \$30,000 grant amount was included in the 2023 Capital Improvements Program approved by the Durham Town Council on December 19, 2022 and does not require a separate vote and resolution to authorize the acceptance and expenditure.

The goals of the Town's stormwater Asset Management Program (AMP) are to develop the following:

1. **Vision Statement and Stakeholder Identification** – The vision statement will identify and define all community stakeholder groups (such as Durham Public Works, UNH, and Durham residents). This community-specific vision statement will help communicate the purpose and overarching goals of what the AMP will do for Durham and other stakeholder groups.
2. **Asset Inventory and Condition** - The asset inventory will include each asset name (with a naming convention that makes sense for the specific community), location and all pertinent information known about each asset. This information will then be used to populate the stormwater asset layer in the Town's GIS system.



Photos above: Catch Basin structure on Schoolhouse Rd. with pipe locations.

3. **Level of Service Workshop** – The level of service workshop will include the Town, NHDES, consultant, and other stakeholders such as UNH to define the level of service goals for the Town's stormwater system. This workshop will be held within the first quarter of the program timeline.
4. **Prioritization** – The Town will prioritize assets based on condition assessment and criticality. A risk assessment type matrix comparing

likelihood of failure vs. consequence of failure will be developed and is an effective and useful tool for helping to prioritize assets and to visualize the state of Durham's stormwater assets.

5. **Life Cycle Cost Analysis** – We will analyze life cycle costs of each critical asset including capital costs, operating costs (including energy costs for all vertical assets), maintenance costs for the life of the assets, and final disposal costs for the assets.
6. **Funding Strategy** – The Town and AMP team will identify a funding strategy for asset maintenance and replacement, showing the need for increased revenue, or justification of adequate revenue, for the long-term management of the assets.
7. **Implementation Plan** – An implementation plan will be developed to explain how Durham will continue to maintain and use the AMP. This implementation plan is critical to the continuation of using and adapting the AMP to meet the Town's needs.
8. **Communication Plan** – We will develop a communication plan with a time frame for completion of deliverables to inform stakeholders about the AMP and its capabilities. This communication plan will identify the most effective methods of communicating with each stakeholder group identified during the development of the community's vision statement.

Results from this planning study will be used for future stormwater capital projects, which will be placed in the Town's long-range Capital Improvements Plans (CIP). They may also be used in conjunction with and to validate any required stormwater capacity studies completed by potential property developers.

Environmental Partners was selected through a competitive RFQ process to complete this work as they continue to work with the Town on a vast majority of the Town's MS4 stormwater system needs.

LEGAL AUTHORITY:

Section 4-21 of the Administrative Code of the Town of Durham requires that professional services contracts (architecture, engineering, construction management, risk management, financial and auditing and other professional services or consulting work) of thirty thousand (\$30,000) dollars or more may be entered into after receiving proposals from various interested firms, evaluating those proposals

and anticipated quality of service to be rendered, and Town Administrator recommendation to and approval by the Town Council.

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

ACCOUNT	TITLE	BUDGETED	EXPENSED/ ENCUMBERED TO DATE	REQUESTED	REMAINING
07-2212- 303-36-000	GIS Program 2022	\$100,000	\$0	\$5,400	\$94,600
07-2312- 209-36-000	GIS Program 2023	\$60,000	\$0	\$60,000**	\$0
TOTAL				\$65,400	\$94,600

** \$30,000 to come from NHDES ARPA Stormwater Grant awarded to the Town.

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION 1:

The Durham Town Council does hereby, upon recommendation of the Administrator, award a contract for the 2023 Stormwater Asset Management Grant Project to Environmental Partners Group of Quincy, MA in the amount of \$65,400 and authorize the Town Administrator to sign associated documents?



TOWN OF DURHAM

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AGENDA ITEM: **#10C**_TS

DATE: February 20, 2023

COUNCIL COMMUNICATION

INITIATED BY: David F. Emanuel, Fire Chief

AGENDA ITEM: SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE ADMINISTRATOR, AWARD THE BID AND AUTHORIZE THE PURCHASE OF A 2023 GMC YUKON AT4 XL IN THE AMOUNT OF \$72,754, WITH VEHICLE TRADE-IN OF \$12,000 AT THE TIME OF DELIVERY, FOR A TOTAL PRICE OF \$60,754 TO BE PAID FROM CAPITAL FUND ACCOUNT # 07-2202-701-36-000 AND AUTHORIZES THE ADMINISTRATOR TO SIGN ALL ASSOCIATED DOCUMENTS?

CC PREPARED BY: David F. Emanuel, Fire Chief

PRESENTED BY: David F. Emanuel, Fire Chief

AGENDA DESCRIPTION:

In accordance with the Town of Durham Approved 2022 Capital Improvements Program, the Town Council previously approved the purchase of a staff vehicle to replace the Fire Department's 2013 Chevrolet Suburban (further identified as the Assistant Fire Chief's Vehicle, Car 2) with a comparable vehicle for an amount not to exceed \$95,000.

The Fire Department seeks authorization to spend the allocated CIP funding to purchase a similar replacement sport utility vehicle (SUV) such as a 2023 GMC Yukon XL through the State of New Hampshire Municipal Purchasing Program.

Holloway Buick Pontiac GMC Cadillac in Portsmouth, NH provided the Town of Durham with a municipal pricing proposal, based on the N.H. State Bid, for a 2023 GMC Yukon AT4 XL for a sale price of \$72,754 with an option to trade in the 2013 Chevrolet Suburban at a trade-in value of \$12,000, resulting in a net price of \$60,754 for the purchase of the 2023 GMC Yukon AT4 XL.

Pursuant to the Town of Durham Purchasing Policy, the Fire Department requests approval to spend \$60,754 of the allocated CIP funding to purchase the replacement staff command vehicle

through the State of New Hampshire Municipal Purchasing Program, i.e. the State Bidding Program with State bidding prices.

Additional monies will be used from the 2022 Capital Improvement Plan Car 2 to fit up the vehicle once it arrives in Durham.

LEGAL AUTHORITY:

Article 4-20 of the Administrative Code of the Town of Durham requires all purchases or contracts in excess of \$55,000.00 shall require Town Council approval by affirmative vote. Purchases made through existing State of New Hampshire or other state/government contracts, Strafford County or Oyster River School District contracts shall be deemed to meet the bid requirements of the above paragraphs.

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

\$95,000 was approved in the FY 2022 Capital Improvement Plan, Account (#07-2202-701-36-000), for the replacement of Car 2 at the Fire Department.

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby, upon recommendation of the Administrator, award the bid and authorizes the purchase of a 2023 GMC Yukon AT4 XL in the amount of \$72,754, with vehicle trade-in of \$12,000 at the time of delivery, for a total price of \$60,754 to be paid from Capital Fund account # 07-2202-701-36-000 and authorizes the Administrator to sign all associated documents.

HOLLOWAY

BUICK • PONTIAC
GMC • CADILLAC



Durham NH

David Emanuel, Chief

51 College Road

Durham, NH 03824

David,

Please find listing of the 2023 GMC Yukon AT4 XL

Pricing is as follows:

\$72,754 FOB Portsmouth NH

Trade in value against the 2023 Yukon XL is \$12,000

So with title to trade difference is \$60,754.

A handwritten signature in black ink, appearing to read "Dennis Williams".

Dennis Williams

Holloway GMC

500 US Highway One South

Portsmouth, NH 03801

NO MATTER WHAT YOUR DREAM.

WE HAVE YOUR CAR.

From: [David Emanuel](#)
To: [Karen Edwards](#)
Cc: [Kelley Fowler](#)
Subject: FW: 2023 GMC Yukon AT4 XL
Date: Thursday, February 16, 2023 11:43:20 AM
Attachments: [417AE04159A44CE3B218F81E703EF909\[35506442\].png](#)
[5EE36156E79B44208C36886C408F6FEB\[35506443\].png](#)
[31C0BA258BA34A7898142F327913D1E3\[35506444\].png](#)
[image001.png](#)

Karen,

I've attached the email chain clarification regarding the question about vehicle pricing below – for the file.

Thank you for the call this morning.

DE

Dave Emanuel, MPA, EFO, CFO
Fire Chief - Durham Fire Department
51 College Road, Durham, NH 03824
david.emanuel@unh.edu
(603) 862-1426 (Office) - (603) 397-7447 (Mobile)
"Our Family Protecting Your Family"



Please note the email address change as the Durham Fire Department migrated from the Town of Durham to University of New Hampshire IT platform on May 27, 2020. The best email address for Dave Emanuel from this point forward is david.emanuel@unh.edu. Please update your address book.

From: Randall Trull <Randall.Trull@unh.edu>
Sent: Wednesday, February 15, 2023 4:34 PM
To: David Emanuel <David.Emanuel@unh.edu>; Kelley Fowler <Kelley.Fowler@unh.edu>
Subject: FW: 2023 GMC Yukon AT4 XL

From: Dennis Williams <dwilliams@hollowayauto.com>
Sent: Thursday, February 9, 2023 11:25 AM
To: Randall Trull <Randall.Trull@unh.edu>
Subject: RE: 2023 GMC Yukon AT4 XL

CAUTION: This email originated from outside of the University System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning Randy,

Yes the pricing includes Municipal price /bid assist. This vehicle is a very limited production vehicle.

Dennis Williams

Sales. Leasing, Commercial Manager

Holloway Buick, GMC, Cadillac

Telephone: (603) 436-1700 Cell (603) 234-2143

Fax (603) 436-0493

E Mail: gmctruck@comcast.net

HOLLOWAY BUICK GMC CADILLAC
500 US HWY 1 BYPASS SOUTH PORTSMOUTH NH 03801-4196



GMC



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From: [Randall Trull](#)

Sent: Tuesday, February 7, 2023 10:27 AM

To: [Dennis Williams](#)

Cc: [David Emanuel](#)

Subject: 2023 GMC Yukon AT4 XL

Good morning,

I am currently finishing the council communication for the Yukon purchase. Is this purchase under

the State of New Hampshire Municipal Pricing?

Kind Regards,

Assistant Chief Trull

Assistant Chief Randall Trull
Durham Fire Department
(603) 862-2536 (Office)
(603) 397-2775 (Cell)



"FORWARD ON"

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AGENDA ITEM: **#12A** *TS*

DATE: **February 20, 2023**

COUNCIL COMMUNICATION

INITIATED BY: Gail Jablonski, Business Manager

AGENDA ITEM: END OF YEAR FINANCIAL REPORT THROUGH DECEMBER 31, 2022

CC PREPARED BY: Gail Jablonski, Business Manager

PRESENTED BY: Gail Jablonski, Business Manager

AGENDA DESCRIPTION:

In compliance with section 5.6 of the Durham Town Charter attached for your review and consideration is the unaudited year-end financial report for 2022. General Fund information is broken down by function which may be helpful for your analysis and for the purpose of discussion at the Town Council Meeting. Revenue and expense reports for all other funds are presented in summary format.

The auditors will be here for their preliminary work beginning in March. This year we have new auditors, Plodzick & Sanderson, so we anticipate they will require some additional days to get up to date on everything.

LEGAL AUTHORITY:

Durham Town Charter Section 5.6

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

Revenues: The Town's revenue as of December 31, 2022, is estimated to be over what was originally forecast by approximately \$300,000. A few areas to note where revenues exceeded expectations were in the interest collected on late tax payments, building permits, meals and rental payment from the State of NH, recreation fees,

refuse/recycling fees, grants received by the Fire Department, and interest on investments.

Expenses: The Town's unaudited expenditures as of December 31, 2022, show a total expenditure of 97.2% of the total approved budget amount or a savings of approximately \$500,000.

Each department was instrumental in keeping the budget in check and there are no areas to report significant overages with the exception of the Direct Assistance (Welfare). In 2022 the Town assisted eleven applicants with rent, electricity and heating oil expenses. We currently have two active cases of public assistance open.

You will note the MIS and Building Inspection departments had significant savings due to open positions. I am happy to report that an offer of employment was recently extended to a candidate for the MIS department.

There are no major items to be noted for the Other Funds Summary which includes Water, Sewer, Parking, Depot Road, Churchill Rink and Library Funds.

REPORT ON IMPACT FEES

Per RSA 674:21 V(l) No later than 60 days following the end of the fiscal year, any municipality having adopted an impact fee ordinance shall prepare a report listing all expenditures of impact fee revenue for the prior fiscal year.

PARKING IMPACT FEES

In 2022 there was no activity in the Parking Impact Fees and the current balance is \$0.00.

SCHOOL IMPACT FEES

In 2022 there were no expenditures and three (3) contributions totaling \$11,097.00 to the School Impact Fees. The balance as of 12/31/2022 was \$55,645.96.00.

SUGGESTED ACTION OR RECOMMENDATIONS:

No formal action is required. This report is presented as information to keep the Council informed on the Town's financial position.

2022 Budget/Estimated General Fund - UNAUDITED
January 1 - December 31, 2022

PROPERTY TAXES/ABATEMENTS/CREDITS	Estimated Revenue 2022	Revenues Ending 12/31/22	Revenues Over (Under) 2022	Percent Collected 12/31/22	Percent Collected 12/31/21
Property Taxes	\$10,108,550	\$10,115,692	\$7,142	100.1%	99.0%
Payment in Lieu of Taxes	\$965,000	\$1,018,226	\$53,226	105.5%	103.0%
Abatements	(\$900,000)	(\$618,085)	(\$281,915)	68.7%	100.0%
Veteran Service Credits	(\$125,000)	(\$129,500)	(\$4,500)	103.6%	98.0%
REVENUES	Estimated Revenue 2022	Revenues Ending 12/31/22	Revenues Under (Over) 2022	Percent Collected 12/31/22	Percent Collected 12/31/21
Interest and Penalties on Delinquent Taxes	\$35,000	\$128,092	(\$93,092)	366.0%	102.5%
Permit Fees	\$1,461,000	\$1,524,743	(\$63,743)	104.4%	105.4%
State/Federal Revenues	\$1,397,600	\$1,590,548	(\$192,948)	113.8%	142.2%
Intergovernmental Revenues (ORCSD-SRO)	\$83,950	\$87,750	(\$3,800)	104.5%	100.0%
UNH - Shared Services, School, Fire & Debt Service	\$2,526,750	\$2,552,143	(\$25,393)	101.0%	100.7%
Departmental Income	\$240,400	\$292,489	(\$52,089)	121.7%	117.3%
Fire and Police Special Details	\$295,000	\$142,910	\$152,090	48.4%	55.9%
Miscellaneous Revenue	\$728,300	\$759,030	(\$30,730)	104.2%	143.9%
Fund Balance	\$880,815	\$880,815	\$0	100.0%	0.0%
Total General Fund Revenues	\$7,648,815	\$7,958,520	(\$309,705)	104.0%	106.6%
EXPENDITURES	Council Budget 2022	Expended Through 12/31/22	Expenditures Under (Over) 2022	Percent Expended 12/31/22	Percent Expended 12/31/21
GENERAL GOVERNMENT					
Town Council	\$164,500	\$101,470	\$63,030	61.7%	19.9%
Town Treasurer	\$6,000	\$6,028	(\$28)	100.5%	100.8%
Town Administrator	\$450,600	\$451,611	(\$1,011)	100.2%	99.5%
Elections	\$17,550	\$12,108	\$5,442	69.0%	98.7%
Tax Collector/Town Clerk	\$298,450	\$288,631	\$9,819	96.7%	101.5%
Accounting	\$379,000	\$377,532	\$1,468	99.6%	99.0%
Assessing	\$218,600	\$213,644	\$4,956	97.7%	104.0%
Legal - Attorney Fees	\$75,000	\$80,359	(\$5,359)	107.1%	166.7%
Legal - Eversource Settlement (Great Bay Study)	\$175,000	\$175,000	\$0	100.0%	100.0%
Planning	\$189,000	\$190,525	(\$1,525)	100.8%	100.6%
Economic Development	\$0	\$0	\$0	0.0%	70.6%
Boards/Commissions/Committees	\$71,400	\$55,693	\$15,707	78.0%	153.3%
DCAT	\$129,250	\$125,688	\$3,562	97.2%	113.7%
GIS	\$112,950	\$111,064	\$1,886	98.3%	64.80%
MIS	\$408,800	\$319,936	\$88,864	78.3%	102.3%
Building Inspection	\$250,100	\$203,116	\$46,984	81.2%	81.4%
Emergency Management	\$1,000	\$1,031	(\$31)	103.1%	185.7%
Other General Government	\$251,300	\$232,935	\$18,365	92.7%	86.1%
General Government Total	\$3,198,500	\$2,946,371	\$252,129	92.1%	95.4%
PUBLIC SAFETY					
Police Department	\$3,178,950	\$3,149,413	\$29,537	99.1%	96.4%
Police Department Special Details	\$169,300	\$68,609	\$100,691	40.5%	45.4%
Fire Department	\$4,492,650	\$4,480,777	\$11,873	99.7%	98.8%
Fire Department Use of Donations	\$0	\$4,095	(\$4,095)	0.0%	0.0%
Fire Department Special Details	\$43,300	\$35,255	\$8,045	81.4%	56.3%
Communication Center	\$20,700	\$18,800	\$1,900	90.8%	94.9%
Ambulance Services	\$40,000	\$39,039	\$961	97.6%	99.9%
Public Safety Total	\$7,944,900	\$7,795,988	\$148,912	98.1%	96.3%

EXPENDITURES	Council Budget 2022	Expended Through 12/31/22	Expenditures Under (Over) 2022	Percent Expended 12/31/22	Percent Expended 12/31/21
PUBLIC WORKS					
Administration	\$412,450	\$347,270	\$65,180	84.2%	89.7%
Engineer	\$152,700	\$106,089	\$46,611	69.5%	73.4%
Stormwater Permitting	\$3,500	\$4,350	(\$850)	124.3%	99.3%
Town Buildings	\$282,750	\$329,013	(\$46,263)	116.4%	98.5%
Town Cemeteries & Trusted Graveyards	\$15,650	\$7,815	\$7,835	49.9%	65.8%
Wagon Hill & Parks & Grounds Maintenance	\$174,500	\$189,625	(\$15,125)	108.7%	85.5%
Equipment Maintenance	\$244,600	\$258,235	(\$13,635)	105.6%	93.6%
Roadway Maintenance	\$165,600	\$162,507	\$3,093	98.1%	90.2%
Drainage & Vegetation	\$133,500	\$128,735	\$4,765	96.4%	90.8%
Snow Removal	\$321,800	\$263,595	\$58,205	81.9%	86.9%
Traffic Control	\$137,900	\$150,483	(\$12,583)	109.1%	81.6%
Bridges & Dams	\$227,450	\$194,884	\$32,566	85.7%	83.3%
Public Works Use of Donations	\$0	\$0	\$0	0.0%	186.4%
Public Works Total	\$2,272,400	\$2,142,601	\$129,799	94.3%	88.8%
SANITATION					
Solid Waste Administration	\$173,500	\$161,726	\$11,774	93.2%	110.3%
Rolloff Vehicle Operation	\$60,500	\$57,645	\$2,855	95.3%	75.3%
Curbside Collection	\$211,400	\$226,373	(\$14,973)	107.1%	113.5%
Litter Removal	\$31,800	\$26,996	\$4,804	84.9%	101.3%
Recycling	\$161,300	\$178,328	(\$17,028)	110.6%	85.0%
Solid Waste Management Facility (SWMF)	\$125,900	\$126,834	(\$934)	100.7%	126.5%
Sanitation Total	\$764,400	\$777,902	(\$13,502)	101.8%	104.3%
HEALTH & WELFARE					
Health Inspector	\$400	\$0	\$400	0.0%	0.0%
Social Service Agencies	\$12,200	\$12,200	\$0	100.0%	98.0%
Direct Assistance (Welfare)	\$30,000	\$68,836	(\$38,836)	229.5%	213.7%
Health & Welfare Total	\$42,600	\$81,036	(\$38,436)	190.2%	167.8%
CULTURE & RECREATION					
Parks & Recreation Department	\$336,500	\$343,244	(\$6,744)	102.0%	100.0%
UNH Outdoor Pool and ORYA	\$0	\$0	\$0	0.0%	0.0%
Parks & Recreation Committee	\$1,500	\$1,533	(\$33)	102.2%	0.0%
Memorial Day	\$500	\$509	(\$9)	101.8%	25.0%
Conservation	\$58,450	\$30,025	\$28,425	51.4%	115.7%
Culture & Recreation Total	\$396,950	\$375,311	\$21,639	94.5%	101.3%
DEBT SERVICE					
Principal	\$1,327,800	\$1,327,724	\$76	100.0%	100.7%
Interest	\$343,600	\$343,512	\$88	100.0%	105.3%
Debt Service Charges	\$5,000	\$5,850	(\$850)	117.0%	18.4%
Debt Service Total	\$1,676,400	\$1,677,086	(\$686)	100.0%	101.4%
TRANSFERS					
Transfer to Library	\$542,900	\$542,900	\$0	100.0%	100.0%
Transfer to Capital Project Fund	\$707,500	\$707,500	\$0	100.0%	100.0%
Transfer to Capital Reserve Fund	\$45,000	\$45,000	\$0	100.0%	362.4%
Debt Service Total	\$1,295,400	\$1,295,400	\$0	100.0%	104.4%
TOTAL GENERAL FUND EXPENDITURES	\$17,591,550	\$17,091,695	\$499,855	97.2%	96.9%

2022 Budget/Estimated Other Funds Summary - UNAUDITED
January 1 - December 31, 2022

Water Fund	Estimated 2022	Ending 12/31/22	Under (Over) 2022	Percent as of 12/31/22	Percent as of 12/31/21
Revenues	\$1,247,500	\$1,243,549	\$3,951	99.7%	93.7%
Expenses	\$1,247,500	\$1,184,080	\$63,420	94.9%	93.2%

Sewer Fund	Estimated 2022	Ending 12/31/22	Under (Over) 2022	Percent as of 12/31/22	Percent as of 12/31/21
Revenues	\$2,968,000	\$2,981,722	(\$13,722)	100.5%	96.1%
Expenses	\$2,968,000	\$2,869,225	\$98,775	96.7%	89.2%

Parking Fund	Estimated 2022	Ending 12/31/22	Under (Over) 2022	Percent as of 12/31/22	Percent as of 12/31/21
Revenues	\$362,000	\$439,908	(\$77,908)	121.5%	49.2%
Expenses	\$362,000	\$286,051	\$75,949	79.0%	48.6%

Depot Road Fund	Estimated 2022	Ending 12/31/22	Under (Over) 2022	Percent as of 12/31/22	Percent as of 12/31/21
Revenues	\$130,000	\$131,587	(\$1,587)	101.2%	79.0%
Expenses	\$130,000	\$24,910	\$105,090	19.2%	73.0%

Churchill Rink Fund	Estimated 2022	Ending 12/31/22	Under (Over) 2022	Percent as of 12/31/22	Percent as of 12/31/21
Revenues	\$325,400	\$328,229	(\$2,829)	100.9%	61.1%
Expenses	\$325,400	\$320,726	\$4,674	98.6%	72.0%

Library Fund	Estimated 2022	Ending 12/31/22	Under (Over) 2022	Percent as of 12/31/22	Percent as of 12/31/21
Revenues	\$568,650	\$572,218	(\$3,568)	100.6%	97.6%
Expenses	\$567,900	\$575,227	(\$7,327)	101.3%	97.6%



TOWN OF DURHAM

8 Newmarket Road
Durham, NH 03824
Tel: 603-868-5571
Fax: 603-868-1858
www.ci.durham.nh.us

AGENDA ITEM: **#13A** *TS*

DATE: February 20, 2023

COUNCIL COMMUNICATION

INITIATED BY: Jim Rice, Assessor

AGENDA ITEM: PUBLIC HEARING AND ADOPTION OF ORDINANCE #2023-02, AMENDING CHAPTER 132 "TAX EXEMPTIONS AND CREDITS", SECTION 132-5 VETERANS' TAX CREDIT" OF THE DURHAM TOWN CODE RE-ADOPTING THE OPTIONAL VETERANS' TAX CREDIT IN THE AMOUNT OF \$500.00.

CC PREPARED BY: Karen Edwards, Administrative Assistant

CC PRESENTED BY: Todd Selig, Town Administrator
Jim Rice, Assessor

AGENDA DESCRIPTION:

Statutory Change to Property Tax Credits for Veterans – Readoption Required

The New Hampshire Legislature passed, and Governor Sununu signed into law House Bill 1667 (Chapter 121, Laws of 2022), amending eligibility criteria for certain veterans' property tax credits. Effective on July 26, 2022, the bill amended RSA 72:28, the "Standard and Optional Veterans' Tax Credit," and RSA 72:28-b, the "All Veterans' Tax Credit," **to expand the eligibility requirements of the veterans' tax credit to include individuals who have not yet been discharged from service in the armed forces.**

In 2002, the Town of Durham adopted RSA 72:28, II Optional Veteran's Tax Credit, thereby replacing RSA 72:28, I Standard Veteran's Tax Credit. Durham has not adopted RSA 72:28-b All Veteran's Tax Credit.

RSA 72:27-a IV states that any amendments to tax exemptions or credits require the re-adoption of that statute/ordinance.

As a result of the passage of HB 1667, according to the NH Department of Revenue Administration, municipalities who have adopted RSA 72:28, II Optional Veteran's Tax Credit should consider the following:

- The existing Optional Veteran's Tax Credit will remain in place for the April 1, 2022, tax year.
- The Optional Veteran's Tax Credit, at the existing amount or at a new amount, must be readopted by March 31, 2023, to remain in place and include the expanded eligibility effective for the April 1, 2023, tax year.
- If the Optional Veteran's Tax Credit is not readopted, the Standard Veterans' Tax Credit will be in place for the April 1, 2023, tax year, which will include the expanded eligibility requirements.

In 2010, Durham adopted the Optional Veteran's tax credit at \$500 replacing the Standard Veteran's Credit of \$50.

Based on the aforementioned information, it is recommended that Durham re-adopt amended RSA 72:28-II Optional Veterans' Tax Credit at \$500 by March 31, 2023, to include active service members effective for the April 1, 2023 tax year.

At its meeting on February 6, 2023, the Town Council moved this ordinance on First Reading and scheduled a Public Hearing for its meeting on Monday, February 20, 2023. A Public Hearing notice was published in the *Foster's/Seacoast Online* on Thursday, February 9, 2023. The notice was also posted on the outside bulletin board at Town Hall, as well as at the Durham Public Library and Department of Public Works.

LEGAL AUTHORITY:

RSA 72:27-a establishes the procedures for adoption, modification, and rescission of the optional veterans' tax credit.

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION #1

The Durham Town Council does hereby OPEN the Public Hearing on (as presented) (as Amended) Ordinance #2023-02, Amending Chapter 132 "Tax Exemptions and Credits", Section 132-5 Veterans' Tax Credit" of the Durham Town Code Re-Adopting the Optional Veterans' Tax Credit in the Amount of \$500.00.

MOTION #2

The Durham Town Council does hereby CLOSE the Public Hearing on (as presented) (as Amended) Ordinance #2023-02, Amending Chapter 132 "Tax Exemptions and Credits", Section 132-5 Veterans' Tax Credit" of the Durham Town Code Re-Adopting the Optional Veterans' Tax Credit in the Amount of \$500.00.

MOTION #3

The Durham Town Council does hereby ADOPT (as presented) (as Amended) Ordinance #2023-02, Amending Chapter 132 "Tax Exemptions and Credits", Section 132-5 Veterans' Tax Credit" of the Durham Town Code Re-Adopting the Optional Veterans' Tax Credit in the Amount of \$500.00.

ORDINANCE #2023-02 OF DURHAM, NEW HAMPSHIRE

AN ORDINANCE AMENDING CHAPTER 132 "TAX EXEMPTIONS AND CREDITS", SECTION 132-5 VETERANS' TAX CREDIT" OF THE DURHAM TOWN CODE RE-ADOPTING THE OPTIONAL VETERANS' TAX CREDIT IN THE AMOUNT OF \$500.00

WHEREAS, on July 8, 2002, the Durham Town Council adopted Ordinance #2002-04, creating a new Chapter 132 within the Durham Town Code entitled "Tax Exemptions and Credits" that codified all of the Town's existing adopted property tax exemptions. Ordinance #2002-04 also adopted and codified the optional Veterans' Tax Credit and Surviving Spouse Veterans' Tax Credit, as well as codified and increased the income amounts and asset limits for the disabled and elderly exemptions.; and

WHEREAS, RSA 72:28 establishes the standard and optional veterans' tax credit; and

WHEREAS, RSA 72:28 provides that the standard veterans' tax credit is \$50; and

WHEREAS, RSA 72:28 further provides that the optional veterans' tax credit is in the amount of \$51 and up to \$750, as determined by the municipality; and

WHEREAS, in accordance with RSA 72:28, and to the extent adopted by the municipality, the optional veterans' tax credit shall replace the standard veterans' tax credit in its entirety and shall not be in addition thereto; and

WHEREAS, the Town of Durham currently provides the optional veterans' tax credit in the amount of \$500; and

WHEREAS, on June 1, 2022, the New Hampshire legislature passed House Bill 1667, amending RSA 72:28, IV-a, to expand the eligibility requirements of the veterans' tax credit to include individuals who have not yet been discharged from service in the armed forces; and

WHEREAS, RSA 72:27-a establishes the procedures for adoption, modification and rescission of the optional veterans' tax credit; and

WHEREAS, because the RSA 72:28 has been amended, RSA 72:27-a requires that municipalities re-adopt the optional veterans' tax credit, at the existing amount or at a new amount; and

WHEREAS, in accordance with RSA 72:27-a, municipalities may adopt or modify the optional veterans' tax credit upon the affirmative vote of the governing body; and

WHEREAS, the Durham Town Council desires to re-adopt the Veterans' Tax Credit in the amount of \$500,

WHEREAS, at its meeting on February 6, 2023, the Town Council moved this ordinance on First Reading and scheduled a Public Hearing for its meeting on Monday, February 20, 2023. A Public Hearing notice was published in the *Foster's/Seacoast Online* on Thursday, February 9, 2023. The notice was also posted on the outside bulletin board at Town Hall, as well as at the Durham Public Library and Department of Public Works.

NOW, THEREFORE BE IT RESOLVED, that the Town of Durham, through the Durham Town Council, the legislative and governing body of the Town of Durham, New Hampshire, hereby adopts Ordinance #2023-02 and does hereby amend Chapter 132, Section 132-5 Veterans' Tax Credit of the Durham Town Code re-adopting the tax credit amount as indicated below.

BE IT FURTHER RESOLVED that this ordinance shall take effect on April 1, 2023.

Wording to be omitted is annotated with **strikeout** type. New wording is annotated with underscoring.

132-5. Veterans' Tax Credit

- A. The optional veterans' tax credit, upon adoption by a city or town pursuant to RSA 72:27-a, shall be an amount from \$51 up to \$500. The optional veterans' tax credit shall replace the standard veterans' tax credit in its entirety and shall not be in addition, thereto.
- B. The optional veterans' tax credit shall be ~~\$200 effective 4/1/08; \$300 effective 4/1/09; \$400 effective 4/1/2010; and \$500 effective 4/1/2011~~ 2023 subtracted each year from the property tax on the veteran's residential property. However, the surviving spouse of a resident who suffered a service-connected death may have the amount subtracted from the property tax on any real property in the same municipality where the surviving spouse is a resident.
- C. The following persons shall qualify for the optional veterans' tax credit:

- (1) Every resident of this state who is a veteran, as defined in RSA 21:50* and served not less than 90 days in the armed forces of the United States in any qualifying war or armed conflict listed in this section and was honorably discharged or an officer honorably separated from service; or the spouse or surviving spouse of such resident; and
- (2) Every resident of this state who was terminated from the armed forces because of service-connected disability; or the surviving spouse of such resident; and
- (3) The surviving spouse of any resident who suffered a service-connected death.

*** 21:50 Veteran; Armed Forces; Active Duty; Service-Connected Injury, Illness, or Disability. -**

I. (a) "Veteran" means any person who:

- (1) Served in the United States armed forces for more than 4 years and continues to serve; or
- (2) Has been discharged or released from duty in the United States armed forces with:
 - (A) An honorable discharge; or
 - (B) An uncharacterized discharge based on a service-connected injury, illness, or disability.
- (b) The following documents may be used to establish an individual's status as a veteran:
 - (1) DD Form 214 from any branch of the armed forces.
 - (2) DD Form 215 from any branch of the armed forces.
 - (3) DD Form 217 from any branch of the armed forces.
 - (4) DD Form 2 (Retired).
 - (5) WD AGO Form 53-55 from the United States Army.
 - (6) WD AGO Form 53-98 from the United States Army.
 - (7) WD AGO Form 755 from the United States Army.
 - (8) NAVPERS Form 553 from the United States Navy.
 - (9) NAVPERS Form 554 from the United States Navy.
 - (10) NAVPERS Form 660 from the United States Navy.
 - (11) NAVPERS Form 661 from the United States Navy.
 - (12) NAVMC Form 70-PD from the United States Marine Corps.
 - (13) NAVMC Form 78-PD from the United States Marine Corps.
 - (14) NAVCG Form 2510 from the United States Coast Guard.
 - (15) NGB Form 22 from the National Guard.
 - (16) GSA Form 6954 from the National Archives.
 - (17) NA Form 13038 from the National Archives.
 - (18) NA Form 13041 from the National Archives.
 - (19) Verification of Service letter from the Department of Veterans Affairs.
 - (20) Summary of Military Service Record from the New Hampshire Korean War Bonus application.
 - (21) Notarized statement of service letter signed by the individual's commanding officer or administrative officer.
 - (22) Completed DD FORM 4/2, October 2007 from the National Guard.
 - (23) Completed DD FORM 1300, February 2011.
 - (24) Other documents approved by the director, division of veteran's services.

II. "Armed forces" means the United States Army, Army Reserve, Navy, Naval

Reserve, Marine Corps, Marine Corps Reserve, Air Force, Air Force Reserve, Coast Guard, Coast Guard Reserve, Army National Guard, and the Air National Guard. "Armed forces" also includes other components, but is limited to those components and active-duty periods described in 38 C.F.R. 3.7.

- III. **"Active duty" means full-time duty as an enlisted member, or as a Commissioned or warrant officer, in any branch of the armed forces.**
- IV. *"Service-connected injury or illness or disability" means an injury, illness or disability incurred or aggravated while in the line of duty in the armed forces of the United States.*

PASSED AND ADOPTED this 20 day of February, 2023 by the Durham Town Council, the legislative and governing body of the Town of Durham, New Hampshire, with _____ voting in favor, _____ voting against, and abstaining.

Katherine Marple, Chair
Durham Town Council

ATTEST:

Lorrie Pitt, Town Clerk-Tax Collector

New Hampshire Department of Revenue Administration
109 Pleasant Street, Concord, NH 03301

TECHNICAL INFORMATION RELEASE
UPDATED TIR 2022-005 Date: October 24, 2022

A Technical Information Release is designed to provide immediate information regarding tax laws administered by the Department or the policy positions of the Department as a service to taxpayers and practitioners. A Technical Information Release represents the position of the Department on the limited issues discussed herein based on current law and Department interpretation. For the current status of any tax law, practitioners and taxpayers should consult the source documents (i.e., Revised Statutes Annotated, Rules, Case Law, Session Laws, etc.).

Statutory Change to Property Tax Credits for Veterans – Readoption Required

The New Hampshire Legislature passed, and Governor Sununu signed into law House Bill 1667 (Chapter 121, Laws of 2022), amending eligibility criteria for certain veterans’ property tax credits. Effective on July 26, 2022, the bill amended RSA 72:28, the “Standard and Optional Veterans’ Tax Credit,” and RSA 72:28-b, the “All Veterans’ Tax Credit,” to expand the eligibility requirements of the veterans’ tax credit to include individuals who have not yet been discharged from service in the armed forces.

Under RSA 72:27-a, IV amendments to tax credits and exemptions which require adoption will only apply “in a municipality which previously adopted the provision only after the municipality complies with the procedure” specified in RSA 72:27-a, II, unless otherwise expressly required by law. Nothing in HB 1667 created an exception to this readoption requirement.

As a result of the passage of HB 1667, municipalities should consider the following:

- For municipalities with the Standard Veteran’s Tax Credit:
 - No readoption is required, the expanded eligibility will apply to the Standard Veterans’ Tax Credit for the April 1, 2023 tax year.
 - Municipalities can adopt the Optional Veterans’ Tax Credit under RSA 72:28, II and/or the All Veterans’ Tax Credit under RSA 72:28-b with the expanded eligibility for the April 1, 2023 tax year.
- For municipalities with an Optional Veterans’ Tax Credit under RSA 72:28, II:
 - The existing Optional Veteran’s Tax Credit will remain in place for the April 1, 2022 tax year.
 - The Optional Veteran’s Tax Credit, at the existing amount or at a new amount, must be *readopted* pursuant to RSA 72:27-a to remain in place and include the expanded eligibility effective for the April 1, 2023 tax year.

- If the Optional Veteran's Tax Credit is not readopted, the Standard Veterans' Tax Credit will be in place for the April 1, 2023 tax year, which will include the expanded eligibility requirements.
- For municipalities with the All Veterans' Tax Credit under RSA 72:28-b:
 - The existing All Veterans' Tax Credit will remain in place for the April 1, 2022 tax year.
 - The All Veterans' Tax Credit, at the existing amount or at a new amount, must be *readopted* pursuant to RSA 72:27-a to remain in place and include the expanded eligibility effective April 1, 2023 tax year.
 - If the All Veterans' Tax Credit is not readopted, the Standard Veterans' Tax Credit will be in place for the April 1, 2023 tax year, which will include the expanded eligibility requirements.

The Department will examine warrant article submissions to ensure that communities which have previously adopted these credits are aware that they must be readopted to remain in effect. Additionally, and in accordance with our usual practice, before approving a municipality's veterans' tax credit totals reported on the "Summary Inventory of Valuation" (MS-1) the Department will determine that a legislative body vote to readopt these credits has occurred.

Additional information can be obtained by referencing RSAs 72:27-a, 72:28, 72:28-b, and 21:50. Questions may be directed to the Department of Revenue Administration's Municipal Bureau at (603) 230-5090.