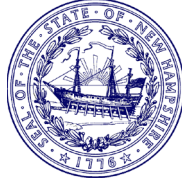


STATE OF NEW HAMPSHIRE

CHAIRMAN  
Daniel C. Goldner

COMMISSIONER  
Pradip K. Chattopadhyay

COMMISSIONER  
Carleton B. Simpson



Tel. (603) 271-2431

Website:  
[www.puc.nh.gov](http://www.puc.nh.gov)

**PUBLIC UTILITIES COMMISSION**  
21 S. Fruit St., Suite 10  
Concord, N.H. 03301-2429

March 28, 2023

The Honorable Senator Rebecca Perkins Kwoka  
The Honorable Representative Thomas Cormen  
The Honorable Representative Rebecca McWilliams  
The General Court of the State of New Hampshire  
107 North Main Street  
Concord, New Hampshire 03301

RE: SB 165, relative to the online energy data platform

We apologize for communicating our concerns about this bill after your committee meeting and decision on SB 165. As a quasi-judicial administrative agency, the Public Utilities Commission does not typically involve itself in the policy making functions of the legislature and therefore we don't monitor legislative activity closely. In this case, however, the bill appears to impinge on our primary ratemaking function and thus, we wanted you to be aware of our concerns.

Our concerns with SB 165, are not centered on state policy regarding the development, construction, and use of a statewide, multi-use, online energy data platform. The Commission's comments are directed solely to the Commission's role in regulating utility expenditures and ensuring rates are just and reasonable as required by law.

As amended, the SB 165 will make the Commission's role as arbiter contingent. The bill removes the Commission's traditional guaranteed oversight and, instead, vests two independent state agencies, the Department of Energy and the Office of the Consumer Advocate, with the authority to request the Commission defer the implementation of energy data platform for reasons of cost. But, if neither state agency petitions the Commission, the utilities' plan must be accepted by the Commission without review. The utilities would therefore be authorized to build the platform and recover any and all expenses or capital expenditures incurred in construction of the platform.

Early estimates for such an undertaking predict substantial costs - in the tens of millions of dollars. Although the Commission believes all agencies of the state exercise their legislatively directed functions with fidelity and diligence, the authorization of such spending by regulated utilities without guaranteed Commission review reflects a substantial change in policy. Although concerning, the Commission recognizes the General Court is free to determine its policy prerogatives.

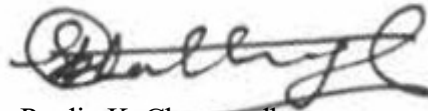
The Commission is most concerned with the new paragraph that would be enacted by the bill, proposed paragraph RSA 378:51, V. Our concern is based upon the apparent confusion created as to reviewing recovery of the costs of the online energy data platform. Per the bill text, the Commission is precluded from managing, directing, or supervising the development of the platform. The Commission, however, is authorized to review the costs incurred by utilities “in the same manner it reviews other costs that utilities intend to recover from customers.” Yet, the bill expressly states utilities *shall recover* all costs incurred consistent with their submitted plan.

Accordingly, the Commission does not understand the standard it is to employ in reviewing utility costs proposed for recovery from ratepayers. The bill appears to permit the Commission to engage in its historic and fundamental role of ensuring rates are just and reasonable by scrutinizing the costs incurred by the utilities, including capital expenditures, and ensuring recovery only occurs once customers are being provided service. Yet the bill requires utilities be guaranteed recovery of costs captured in the data platform plan. As noted above, this plan may not be subject to Commission review. Thus, the effect is not to permit Commission review of costs incurred by utilities in the same manner it reviews other costs recovered by utilities. Rather, it appears the Commission’s review must be limited only to whether utility costs are consistent with the data platform plan submitted, regardless of whether the data platform is in service, the costs were prudently incurred, or the resulting rates for cost recovery are just and reasonable. Accordingly, the Commission is concerned with the timing, scope, and methodology of Commission review for costs associated with the data platform.

Sincerely,



Daniel C. Goldner  
Chairman



Pradip K. Chattopadhyay  
Commissioner

cc: Senator Kevin Avard, Senator Howard Pearl, Senator Regina Birdsell, Senator David Watters and Senator Debra Altschiller