



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

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January 29, 2024

Hon. Michael Vose  
Chairman, Science, Technology & Energy Committee  
New Hampshire House of Representatives  
107 North Main St.  
Concord, NH 03301

**RE: HB 1600**, *relative to participation in net energy metering.*

Dear Chairman Vose and Members of the House Science, Technology & Energy Committee,

This bill was a request of the [Community Power Coalition of New Hampshire](http://www.CommunityPowerNH.gov) (CPCNH). I urge you to report this bill as ought to pass with amendment (OTPA) as described in Representative Cormen's introductory remarks. We thank him and all the bipartisan co-sponsors of this bill for bringing it forward.

**We support HB 1600 for the following reasons:**

✦ ***HB 1600 provides needed clarity that Group Net Metering (GNM) programs with Municipal Hosts at the scale of 1 to 5 MW can be developed for Community Power Aggregations (CPAs) in alignment with existing statutory requirements.***

RSA 362-A:1-a, II-c creates the one permissible opportunity for customer-generators at the scale of 1 to 5 MW and specifies that:

*"Municipal Host' means a customer generator with a total peak generating capacity of greater than one megawatt and less than 5 megawatts used to offset the electricity requirements of a group consisting exclusively of one or more customers who are political subdivisions, provided that all customers are located within the same utility franchise service territory."*

The definition of customers that are political subdivisions and qualified off-takers of the power produced by a Municipal Host includes "any district or entity created for a special purpose administered or funded by any of the above-named governmental units." CPAs are administered and operated either directly by municipalities and counties or jointly, such as by CPCNH,

as a special purpose entity created by local governments as a governmental instrumentality pursuant to [RSA 53-A](#)<sup>1</sup> and [RSA 53-E](#), thus qualifying them as a potential customer of a Municipal Host under the current definition.

- ✦ ***HB 1600 will make clear that the power exported to the grid by a municipal host can be used to offset the load of a CPA as a group, rather than individual customer accounts if the host is a customer of a CPA.***

This is perhaps best explained as an analogy to municipally operated water utility. Under RSA 53-E:3-a, municipalities can operate CPAs as an enterprise fund, like a water utility, except instead of operating the distribution system (pipes) and supplying the commodity (water), a CPA only supplies the commodity (electric power) while the electric distribution utility operates the distribution system. The analogy here is a municipal water utility that purchases some or all of the water, the commodity, from a third-party supplier, like a CPA might purchase the output of a Municipal Host with the CPA as a customer that uses that energy to supply some or all of the CPA, as a group, rather than individual municipal accounts – like the existing program construct provides for. CPCNH believes that there could potentially be some ambiguity with the existing statutory definition that HB 1600 would resolve in favor of clarity to enable new opportunities for distributed generation at the 1 to 5 MW scale. As a result, **HB 1600 validates options that can benefit customers and communities while retaining the existing GNM construct with Municipal Hosts that are operated through utility default energy service.**

- ✦ ***HB 1600 avoids cost-shifting from this clarified option because it requires the municipal host to be a customer of a community power aggregation with compensation for the energy made by the CPA pursuant to RSA 362-A:9, II, which provides that:***

*“... municipal or county aggregators under RSA 53-E may determine the terms, conditions, and prices under which they agree to provide generation supply to and credit, as an offset to supply, or purchase*

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<sup>1</sup> [RSA 53-A:3](#) provides that “Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised jointly with any other public agency of this state.” It goes on to provide for creation of a separate legal entity to jointly exercise such powers and authority. A joint powers agreement is characterized as including “Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking” at RSA 53-A:3, III(a). The governing body of each municipal and county member of CPCNH appoints (and can recall) a primary member representative (and alternate if desired) who votes on behalf the member in membership meetings, including electing the Board of Directors of CPCNH from among appointed member representatives and alternates.

*the generation output exported to the distribution grid from eligible customer-generators. . . . 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."*

This means that the electric distribution utility does not incur any costs for energy credits that they would otherwise need to recover from their ratepayers – hence, no cost shifting, or new “stranded costs” would be added as a result of this new program construct.

✦ **HB 1600 is consistent with long standing New Hampshire policy to enable competitive markets and customer choice in energy supply and services.<sup>2</sup>**

From its original enactment in 1998, NH's Net Metering statute, RSA 362-A:9, expressly provided that:

*Electricity suppliers may voluntarily determine the terms, conditions, and prices under which they will agree to provide generation supply to and purchase net generation output from eligible customer-generators . . . [1998, 261:10](#) (HB 485)*

Indeed, the 1998 bill that created net metering amended the purpose statement of RSA 362-A:1 to add that the goals of the chapter, now including net metering, **“should be pursued in a competitive environment pursuant to the restructuring policy principles set forth in RSA 374-F:3.”** NH's constitution and multiple iterations of state statute envisioned that customers would have access to energy resources through competitive markets.<sup>2</sup>

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<sup>2</sup> In 1996 the General Court passed nation-leading electric industry restructuring legislation with the purpose of “reduc[ing] costs for all consumers of electricity by harnessing the power of competitive markets” and with principles that include customer choice, specifying that “customers should be able to choose among options such as real time pricing, and generation sources including interconnected self generation...” In RSA 374-F:1, the General Court went on to state that “increased customer choice and the development of competitive markets for wholesale and retail electricity services are key elements in a restructured industry...” Furthermore, “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.”***

Many of our member communities have opportunities for the development of distributed generation at the 1 to 5 MW scale and the question now is whether they will be developed as “traditional” municipal hosts on utility default service with compensation by the utility or whether they might be developed to help serve the load of the local community power aggregation as a whole with compensation for their energy output coming from the CPA rather than the utility, avoiding an increase in cost-shifting that might otherwise occur if on utility default energy service.

The intent of HB 1600 is to clarify and clearly enable a novel option for municipal hosts. It is **not** intended to supplant, amend, or limit existing group net metering arrangements involving municipal hosts where the municipal host may be a customer of utility default energy service with members of the group consisting of individual retail customer accounts. To that end, we suggest that the proposed new language at the end of the current definition of municipal host (lines 10-14 of the bill) be made a separate sentence and amended to read:

***When a municipal host consents to use its generation to offset the group load of a municipal or county aggregation, and not individual retail customer accounts, then it shall be a customer of a municipal or county aggregation and not on utility default service, with compensation for their output made pursuant to RSA 362-A:9, II.***

A note about part 2 of the bill: it was intended to help maximize the value of net metered generators by treating them as “load reducers” rather than ISO-NE market participants and avoid a potential jurisdictional conflict between state and federal regulation of electricity. Those issues are currently under consideration in the Public Utility Commission’s net metering proceeding, so it is appropriate to delete section 2 and allow the PUC to consider these issues.

In summary, **CPCNH represents both the customers that we serve and the voters to whom we are accountable**. Our interest is acute in transitioning to a more market-based and competitive retail market that will allow Granite State communities and the customers they serve the ability to accelerate the transition to an affordable, equitable, and sustainable energy future. If you have any questions, please don’t hesitate to contact me. Thank you.

Respectfully,



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cc: HB 1600 co-sponsors