

Senate Energy and Natural Resources Committee

Joshua Schauer 271-3077

HB 1733, relative to default electric service procurement and the recovery of competitive market supply costs.

Hearing Date: March 24, 2026

Time Opened: 9:42 a.m.

Time Closed: 10:57 a.m.

Members of the Committee Present: Senators Avard, Pearl, McConkey, Watters and Rosenwald

Members of the Committee Absent : None

Bill Analysis: This bill requires the public utilities commission to use fixed-price contracts for default services and limits reliance on real-time or day-ahead market purchases.

Sponsors:

Rep. Harrington

Who supports the bill: 29 Individuals signed in Support of this legislation. Please contact Joshua.Schauer@gc.nh.gov for more information.

Who opposes the bill: 2 Individuals signed in Opposition of this legislation. Please contact Joshua.Schauer@gc.nh.gov for more information.

Who is neutral on the bill: 3 Individuals signed Neutral on this legislation. Please contact Joshua.Schauer@gc.nh.gov for more information.

Summary of testimony presented:

Representative Michael Vose

- Chair Vose spoke before the prime sponsor of the legislation in order to give background on how this bill came into existence. He stated that it was a collaboration between democrats and republicans that combined together two similar pieces of legislation into one single amendment.
- He stated that it passed the House Committee on Science, Technology, and Energy 18-0 and passed the House on the consent calendar. The amendment did not have a public hearing.
- Since the legislation passed the House, Chair Vose has had conversations with two members of the PUC who stated that the legislation contained language

- that would not be advantageous to the state's interests.
- Specifically, the lines 6-10, that starts with "any such means" and ends with compensate for any deficiency. This language would prohibit utilities from acquiring energy from the day ahead or spot market. The PUC believed that this would take away a tool that utilities can utilize to lower electricity rates. Chair Vose recommended that if they were to move forward with this legislation that those lines are removed.
 - He referenced conversations the committee had between the department of energy as well as the governor's office that revealed that this legislation might not be needed. He stated that in that situation it would be wise for the committee to refer the bill to interim study.

Senator Watters spoke about a letter that the committee received from the office of the consumer advocate that endorsed the bill fully. He spoke about the tension between the PUC and the Community Power Coalition. He said that the Community Power Coalition feels its success has been undermined by the PUC insisting on the use of spot markets. Asked about the philosophical difference between the PUCs position and the Community Power Coalitions position.

Representative Vose stated that Senator Watters was correct about the controversy. There is a question whether a utility providing a last resort service should be acquiring that energy from volatile markets that increase customer risk. He stated that it is common in the energy industry that these practices are considered inappropriate due to the risk brought on. The risk mitigation factor that is built into wholesale supplier costs has got to the point where the mitigation level needs to be reduced to lower the cost of energy. He did not believe they should take away spot market purchases if they are advantageous. As a result of the harsh winter in 2025-2026 ISO New England market prices have soared. They will have to wait till August of 2026 to know what kinds of under collections they might have made and the impact of the spot market purchases. He suggested they wait until the impact of the previous winter is understood before they pass this legislation.

Senator Watters asked about the adding the language "when reasonable" after the line "Any such means for residential and small commercial customers shall involve." This would remove the word "only" and would make the reasonableness standard apply.

Representative Vose said he appreciates and understands the intent of adding that language but did not feel that it would accomplish what the Senator was trying to do. Stated that it is prudent to remove that sentence entirely.

Representative Mike Harrington

- Representative Harrington is the prime sponsor of the legislation. He said that he since this bill was put together without a public hearing some important

- things were overlooked. For that reason, he suggests a motion of interim study.
- He stated that there is an ongoing conversation about what is the best approach to creating default service rates. They should wait till the results of that study are revealed before they create more regulations.
 - He stated that the real issue of the bill is in the first couple of lines. He references the beginning of the legislation which is apart of RSA 374-F:3, and stated that the language that they added was meant to clarify and strengthen the current statute, RSA 374-F:3. He stated that providing reduced risk default services is the key part of this legislation.
 - Default services allow a customer to pay a fixed price per kilowatt-hour for a period of 6 months. If after that 6 month a utility determines there was under collection they can turn around and add a surcharge. He stated that the reaction from customers to this type of action would be negative.
 - The other issue that he highlighted was that savvy consumers who watch the markets and notice that there is potential for surcharges can switch to a competitive supplier before the surcharges are incurred. He did not think that there is any mechanism that would allow the PUC to impose distribution charges onto customers who do switch to avoid surcharges.
 - He stated that he believed they needed more time to work on this legislation. He said that they need to look at what definition they are trying to accomplish. They would like to see the DOE study before they make rules on this issue. He restated that interim study is the best course of action for this legislation. Stated that the PUC already has a rule about non-bypassable charges that he did not think would be changed.

Senator Rosenwald asked why the House sent this to the Senate if it was not ready.

Representative Harrington stated at the time the House was not aware of the DOE study. He still believes the principle that default services should be low risk and not interfere with competitive markets. They were not aware of the study and he does not want a decision to be made without that information. He stated that the governor's office has given the ok to wait on this legislation. Spoke about the requirement set by the PUC that 50% of energy needed to be purchased through day ahead markets or spot markets. The other 50% would be fixed price contracts. He stated that fixed price contracts are low risk but almost always higher in cost. Since the risk premium is built in to the fixed price the risk is on the suppliers to the utilities rather than the consumers.

Senator Rosenwald asked why the DOE did not tell the house committee that they were doing a study on this topic

Representative Harrington stated that since there was no public hearing the DOE was not aware that the house was working on the legislation.

Henry Herndon, CPCNH

- Mr. Herndon thanked the Representatives from the House Committee for the

context they provided. The CPCNH is in support of the legislation. He said that this legislation addresses market fairness and clarified the language of the original statute.

- He said that he was glad that there is universal agreement that costs should not be shifted from the supply rate into the stranded cost charge. He said that there is another question of whether they should shift costs 1-2 years into the future onto customers, with supply charges, when the proxy rate does not collect the costs on the spot market.
- He stated that customers and markets need accurate price signals to function. When rates don't reflect the actual cost of power supply, customers are not really saving money, rather costs are just moved to future customers.
- He referenced a study put out by the DOE in 2024 that found that most markets for default supply rely on fixed price contracts to avoid risks that come with price volatility. He went on to reference some of the recommendations that were made by the DOE as a result of this study.
- He used an example where Liberty Utilities proposed a mid-period rate bump of 1 cent per kilowatt hour. This was to recover half of the approximately 8 million dollars loss that occurred from 2024 into august of 2025.
- Spoke about how the Governor called out a new ISO New England market mechanism that started in March of 2025. He said that there is a nearly billion-dollar cost overrun as a result of this new mechanism.

Senator Avard asked if the study he referred to is the same study as the one currently underway. Asked if he was correct in saying that they are two different studies.

Henry Herndon said that he could not speak to the new study as he was unaware that it existed.

Senator Avard stated that he believed that the studies were different and he did not believe the study made in 2024 applied here.

Bart Fromuth, CEO of Freedom Energy Logistics

- Mr. Fromuth supports the legislation because it restores prudent, risk adverse, default service procurement standards. It also corrects a recent approach that exposes small customers to unnecessary risk as well as damage the competitive supply marketplace.
- He claimed that risk adverse procurement would have lowered winter energy costs. He stated that for decades default service procurement for small residential customers was done with fixed price contracts so that customers don't take on wholesale market risks.
- He stated a few years ago the PUC approved a departure from the long-standing risk adverse practices. They allowed 50% of the load to be procured through forecast and spot market pricing. This included exposure to day ahead and insularly service charges.

- When energy prices spiked in December and January the customers bore the consequences and took on the cost. If the January to August default service period had been fully hedged, customers would not have been exposed to those price shocks.
- He stated that the legislation reinforces an important principal of default service. Default service should minimize risk to small customers, not speculate on short term market outcomes.
- He stated that artificial market offer prices damage competition. When standard rates are set using speculative market forecasts, prices can appear artificially low compared to competitive supply offers that must price risk up front.
- The legislation would also address improper cost recovery through non bypassable charges. Forecasting errors and under collection related to default service can be recovered from all customers through non bypassable charges. This approach socializes the consequences of speculative procurement decisions. The legislation draws the line so that risk taken on for default service procurement stays withing the default service.
- He referenced RSA 374-F:3 which defines the role of the PUC in creating risk adverse procurement standard and maintaining a competitive market space. The PUC is not supposed to influence market pricing with speculative procurement. The 50% speculative procurement standard set by the PUC sets a fundamental departure from the PUCs mandate.

David Creer, Constellation

- Mr. Creer and Constellation were in support of the legislation because it would protect customers from the volatility of speculative markets.
- He spoke briefly about the PUCs shift to 50% speculative procurement for default service. He stated that this puts the pressure and risk onto the customers rather the suppliers. This places a ratepayer on a variable rate with out them knowing. When companies over or under collect they then need to reconcile those costs directly to or from customers.
- He gave an example of the massive swings in energy pricing as a result of the harsh winter. He said that normal pricing is between \$40-\$80 per MWh and this winter prices spiked to around \$200 per MWh.
- He stated he understands that the PUC saw an opportunity to save money by avoiding built in risk premiums that come with fixed contracts, but the savings would take at least 20 years to come to fruition. He makes a comparison between this strategy and not having car insurance.
- He said that even though you aren't paying the risk premium to the suppliers, you pay the utilities interest on paying debt accrued as a result of under collection.
- He stated that the current method of speculative procurement for default service goes against the 4 goals that default service was supposed to meet. He said that it epically harms the goal of building of a competitive market. Some suppliers will offer an artificially lower price with the intention of future reconciliation. This harms the competitive market where suppliers do not artificially lower

prices and pay for risk premiums upfront.

Senator Avard asked if Constellation would rather have the risk on their back than on the customers back.

David Creer responded yes absolutely. He explained that they are sophisticated buyers and sellers of electricity and they are equipped with teams and organizations that properly manage that risk. Default service customers are not equipped to deal with that risk and at the moment are still paying for it.

Senator Avard asked how it would benefit customers if they are managing risk to their own advantage.

David Creer stated that when they manage risk to reduce money lost they can charge lower rates to customers.

Senator Watters asked if they were here because of the PUC's decision to mandate 50% of default energy procurement come from speculative markets.

David Creer said yes.

Michael Licata, Eversource

- Mr. Licata spoke in opposition to the legislation as it came over from the house. He opposes the bill due to the dynamic how this bill came about, where this bill was passed without a public hearing. They had some suggestions for language that were not considered because they did not have an opportunity to testify on the bill. He offered language to the Senate committee that would cover more consumer protections.
- This legislation would prohibit the direct market procurements that utilities are currently doing as directed by the PUC. Gives some context on why they are doing this. He stated that utilities do not make money on default service and they provide it as a service to the public. As a result of the Russian invasion of Ukraine wholesale energy prices jumped, and default service rates had to increase.
- In 2023 the PUC conducted an investigation to reduce the cost of default service. As a result of the investigation the PUC directed utilities to procure 50% of their energy from the direct market to avoid the risk premium they pay in fixed contracts.
- Eversource was neutral on whether or not the legislators decide to make a decision on if utilities should do this or not. It is up to the legislator to decide if they prefer a solution that is more expensive but less risky or a solution that is more price competitive with more risk.
- If they do choose to move forward with the legislation, he offered language that would protect customers from "failed procurements".
- He explained that they are concerned about the second half of the bill,

specifically lines 6-10. They are concerned that this would take away the ability for Utilities to recover costs through non- bypassable charges. He stated that this is something that the PUC already ruled on. He is concerned that if it's codified into the law, it will reduce the flexibility that utilities need to deal with unpredictable emergency situations.

- If customers start to move away from default service in mass, utilities will be limited in their ability to recover that cost, which would be prudently incurred. They believe that a motion of interim study is a good course of action for this legislation.

Senator Watters asked him to outline what they would want the change to be in line 6-10.

Michael Licata stated that there is unclear direction in the case of a failed procurement or unreasonable bid. They want more clear protections in the instances of failed procurement or unreasonable bids.

Senator Rosenwald asked when was the last time they over collected and subsequently lowered the rate.

Michael Licata answered that since this is a new procurement policy he would have to go back and check. He stated that to date the policy has save customers money. He needed to check specifically to answer that question. He stated that as a result of the harsh winter there may need to be upward charges for reconciliation.

Senator Avard asked if their was interest added to the upward reconciliation.

Michael Licata said he would have to check if their were carrying charges applied to this.

Alec O'Meara, Unitil

- Mr. O'Meara stated that Unitil does not have a position on this bill because Utilities do not profit from default services. They simply follow what the PUC recommends.
- He spoke to his experience with default service procurement in Massachusetts. He stated that this is a philosophical policy decision over the role of default services. He asks if default services are meant to be competitive in market pricing or if they are meant to be a risk adverse backstop. He stated that this is for the legislature to decide.
- He stated that Unitil would not have proposed a 50% procurement from the direct market as they lean more toward risk adverse strategies. Default services only account for a small portion of their customer base. As a result of the smaller market, they have had multiple instances of failed and unreasonable bids from providers.

- He stated that Unitil agrees with the language proposed by Mr. Licata and Eversource. He also stated he agreed with Chairman Vose's recommendation for interim study as a result of the complexity and on going investigation into this issue.
- He stated that Unitil was the one who proposed that over and under collections should be reconciled through non by-passable charges. He said that this is because default services are there to benefit all customers as they are available to everyone. Only a small percentage is on default service, which cannot cover the cost by themselves. The PUC has already ruled on this and Unitil considers it a settled matter.
- He stated that default services rates should not be seen as in competition with third party supplier rates. Third party suppliers are not in more or less competition with the default service rate as an "Olympic high jumper is in competition with the bar." The "bar" is the rate set by the PUC. Third parties compete with each other not the market rate.

Senator Avard asked how immature the aggregate program is in NH compared to Mass.

Alec O'Meara answered not as mature. Goes on to explain how it is more mature in Mass.

Josh Elliot and Matthew Young, NH Department of Energy

- Mr. Elliot addressed the question that Senator Avard asked about the old study and the new study. He said that the old study was in regards to the Russian invasion of Ukraine and the volatility that followed that event. Since then they have gotten new data on how the PUCs direction on energy procurement has played out.
- At request of both Unitil and Eversource the PUC is looking to make a wholesale recommendation on how to do these sorts of direct market procurements. This is the new study that was referred to.
- The Department of Energy is oppose to this legislation. They don't want the PUCs hands to be tied when dealing with proxy pricing. Proxy pricing allows them to figure out pricing in the future when they get paid for services today. Incorrect proxy pricing leads to the need more reconciliation of under collections.
- He stated that the department had been trying to set proxy pricing in away that would not include carrying costs as a result of under collection. He emphasized the importance of correctly identifying the proxy pricing.
- He spoke briefly about the strained relationship between the legislature and the PUC. He mentioned that the PUC had two new members and a new chairman. He asked that they give them some opportunity to move down their own path.
- He made a comparison to risk premiums in fix energy contracts and car insurance. He spoke about the savings that can be incurred if you take on a

little more risk. He spoke about striking a balance between costs and risks and how this relates to energy procurement.

- He stated it has been ruled that default service costs should stay within default service. He felt this was reasonable. He is concerned that the language handcuffs the commission in the case of cost recovery during an emergency. For this reason, he believes that interim study is a good motion for this legislation.
- He is concerned that this legislation could send default services into a death spiral as people leave for third party suppliers or community aggregate programs. The base to recover these rates could get smaller and smaller, to the point where you have a handful of small towns taking the full cost people who have already left.

Senator Rosenwald stated that her constituents have not seen savings on their electric bills. She asks him if it is a good comparison to compare electricity bills and car insurance as car insurance is a one-time payment. Electricity bills change from month to month based on use and appliance efficiency.

Josh Elliot explained that his example was meant to describe finding the sweet spot between risk and cost. He also stated he's not sure if her constituents in Nashua are on default service or if they get energy from other suppliers. For this reason, he is unsure about their concerns with price increases.