

DE 06-135

**GRANITE STATE ELECTRIC COMPANY, NEW HAMPSHIRE
ELECTRIC COOPERATIVE, PUBLIC SERVICE COMPANY
OF NEW HAMPSHIRE AND UNITIL ENERGY SYSTEMS**

Petition for Approval of 2007 “Core” Energy Efficiency Programs

Order Following Hearing

ORDER NO. 24,719

December 22, 2006

APPEARANCES: Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Leboeuf, Lamb, Greene & MacRae LLP by Maebh Purcell, Esq. for Unitil Energy Systems; Gallagher, Callahan & Gartrell, PA by Marla B. Matthews, Esq. for Granite State Electric Co.; Devine, Millimet & Branch PA by Paula T. Rogers, Esq. for New Hampshire Electric Cooperative, Inc.; New Hampshire Legal Assistance by Alan Linder, Esq. for The Way Home; Jack K. Ruderman, Esq. for the Office of Energy and Planning; Dana Nute for the New Hampshire Community Action Association; Office of Consumer Advocate by Meredith A. Hatfield, Esq. on behalf of residential ratepayers; and F. Anne Ross, Esq. on behalf of the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On September 29, 2006, Granite State Electric Company d/b/a National Grid (National Grid), New Hampshire Electric Cooperative, Inc. (NHEC), Public Service Company of New Hampshire (PSNH) and Unitil Energy Systems, Inc. (Unitil) (collectively, the Utilities or the NH Electric Utilities) filed with the New Hampshire Public Utilities Commission (Commission) a joint proposal for “Core” ratepayer-funded energy efficiency programs to be made available in 2007 (2007 Core Proposal).

On October 5, 2006, the Office of Consumer Advocate (OCA) notified the Commission of its intent to participate in this docket on behalf of residential ratepayers, consistent with RSA 363:28. On October 12, 2006, the Commission issued an Order of Notice scheduling a prehearing conference to take place on October 25, 2006. During the days following issuance of

the Order of Notice, several parties moved to intervene: the Office of Energy and Planning (OEP) on October 16, 2006; New Hampshire Legal Assistance on behalf of The Way Home (TWH) and the New Hampshire Department of Environmental Services (DES) on October 19, 2006; and the New Hampshire Community Action Association (CAA) on October 23, 2006.

On October 25, 2006, the Commission conducted a prehearing conference during which it granted all pending requests to intervene. The Parties and Staff met in a technical session following the prehearing conference and agreed upon a procedural schedule which Staff recommended to the Commission on October 26, 2006. By secretarial letter dated November 3, 2006, the Commission adopted the procedural schedule recommended by the Parties and Staff. On December 14, 2006, Staff filed a Settlement Agreement, on behalf of National Grid, NHEC, PSNH, Unitil, DES, OEP, CAA, TWH, OCA, and Staff. On December 20, 2006, the Commission held a hearing on the proposed Settlement Agreement.

II. POSITIONS OF THE PARTIES

A. Summary of the 2007 Core Proposal

In their 2007 Core Proposal, the Utilities propose to maintain the current menu of statewide Core programs: the ENERGY STAR Homes program, the Home Energy Solutions program, the ENERGY STAR Lighting program, the ENERGY STAR Appliance program, the Home Energy Assistance Program, the New Equipment and Construction program for commercial and industrial (C&I) customers, the Large C& I Retrofit program, the Small Business Energy Solutions program and certain educational programs. The Utilities also propose to continue certain utility specific programs available only in the specific utility service territories: the NHEC's load management, Smart Start and High Efficiency Heat Pump programs; PSNH's specific adaptations of programs for C&I customers as well as its Smart Start

program, Geothermal Option program enhancement for ENERGY STAR Homes, the HEATSMART program for low-income customers, educational program partnerships targeted to C&I customers, and PSNH's pilot program of requests for proposals for energy efficiency services to C&I customers to promote competitive market development; and Until's energy efficiency web site and web-based Audit Tools program.

The Utilities propose to continue the Core Program management team to oversee all core program activities, provide quarterly reports, participate in meetings with the Parties and Staff, and resolve problems as they arise. The management team will continue to comprise representatives from each utility and will make decisions by consensus with one member specifically designated as the liaison with the Parties and Staff.

The Utilities recommend that they continue to earn a "performance incentive" for utility shareholders, consistent with, *Electric Utility Restructuring Energy Efficiency Programs*, 85 NH PUC 685 (2000)(when the Commission first approved the proposed shareholder incentive). The proposed performance incentive authorizes the Utilities to earn an incentive of up to 12%. The utilities continue to budget an 8% incentive, which is taken out of the overall program budget if certain goals and requirements are met. The Utilities also propose the continuation of a process whereby customers with multi-year projects could receive a commitment from their utility notwithstanding the year-by-year Core Programs approval by the Commission. These commitments, however, will be subject to availability of funds in future years.

The Utilities further propose the continuation of the previously adopted budget adjustment guidelines. For instance, once the budgets are approved, there will be no movement of funds between the residential and commercial sectors unless specifically approved by the Commission. Budget transfers between individual programs of up to 20 percent of the individual

program's budget may be made without Commission approval; however, Staff and interested parties must be notified. Budget transfers between individual programs greater than 20 percent of the individual program's budget shall require Commission approval.

The Utilities point out that the programs are estimated to save 3.3 billion kilowatt-hours (kWh) over the lives of the measures installed thus far, which is the equivalent of saving \$376 million and represents a return for customers of more than \$6 for every program dollar expended. Moreover, the Utilities note that 192,000 customers have received services or products at an average cost of approximately 2.0 cents per lifetime kWh saved, as compared with an average retail price of 11.5 cents per kWh consumed in 2005. By lowering customers' energy needs the Core programs have the added benefit of reducing power plant emissions; these include carbon dioxide, sulfur dioxide and nitrous oxide emissions by an estimated 2.2 million tons.

The Utilities also aver that the programs are evolving in response to changing technologies, market conditions, program evaluations and new standards. As the retail price of compact fluorescent lighting decreased, rebate levels were reduced. In addition, the incentive structure for the ENERGY STAR Homes program changed to provide higher incentives for performance improvements, along with reductions in appliance rebates. ENERGY STAR Home standards changed due to a new program guideline released by the Environmental Protection Agency on September 30, 2005. Furthermore, due to the Farm Security Act of 2002, several New Hampshire customers received additional funding for energy efficiency projects from the U.S. Department of Agricultural – Rural Development Business Programs.

Another source of change in the 2007 Core programs is the Energy Policy Act of 2005, which was signed into law on August 8, 2005. New tax incentives have been incorporated into

the NH ENERGY STAR Homes Program.¹ In addition, the criteria for clothes washers to be eligible under the ENERGY STAR Appliance Program will change on January 1, 2007 from a Modified Energy Factor (MEF) of 1.42 to 1.72 with a Water Factor of less than or equal to 1.72. These stricter standards decrease the number of models that meet such standards from 261 to 175.

Another source of change in the 2007 Core Program is the Federal Energy Regulatory Commission (FERC) approved Settlement Agreement, effective June 16, 2006, that addresses the future capacity requirements of New England. *See Devon Power LLC*, 115 FERC Paragraph 61,340, Docket No. ER03-563-030 (June 16, 2006). As part of that Settlement, the Independent System Operator (ISO-NE) is leading the effort to develop rules that will govern a new Forward Capacity Market (FCM) that will begin operation June 1, 2010. ISO-NE is also developing rules that will govern the Transition Period before the start of the FCM. As part of the FCM, energy efficiency measures installed after June 16, 2006, that are operational during peak hours, will be eligible to receive capacity payments.

The NH Electric Utilities recommend that kW demand savings achieved via these energy efficiency programs be reported by the NH Electric Utilities to ISO-NE as Other Demand Resources (ODR) through 2007. Customers who participate in these energy efficiency programs must agree to forgo any capacity payments. Any capacity payments received by the Utilities during 2007 will be used to supplement the Utilities' Core energy efficiency program budgets.

As the Parties and Staff were developing the final plan for the 2006 Core Programs, the Legislature enacted 2005 N.H. Laws 298. During 2006, this bill allowed for the reallocation of

¹ Some of the manufactured homes have been built to requirements that save at least 30 percent of heating and cooling energy compared to 2004 standards making such homes eligible for the \$1,000 per home tax credit. Currently, homebuilders are applying for the \$2,000 per home tax credit for both site-built and manufactured homes that save at least 50 percent of heating and cooling energy for a comparable home that meets 2004 standards.

Core Program energy efficiency funds to the Special Winter Electric Assistance Program in light of increases in energy costs. As a result of this reallocation, utilities may reduce expenditures in equal installments over a three year period to replace the funds allocated out of the 2006 Core Programs. PSNH and NHEC found it necessary to transfer funds from Core energy efficiency programs to the Special Winter Electric Assistance Program as a result of Senate Bill 228. The 2007 budgets for NHEC and PSNH have been reduced by \$86,112 and \$935,077 respectively, each representing one-third of the total funds transferred in 2006. 2005 N.H. Laws 298:2, II.² Generally, the reductions have been made equally across customer classes. The two companies expect to make similar reductions to their 2008 and 2009 budgets.

Overall, the Utilities seek authority to spend \$16,759,102 on statewide Core programs in 2007. According to their filing, they predict these expenditures will yield 546,854,642 in lifetime kilowatt-hour savings.

B. Summary of the Settlement Agreement

The intent of the Settlement Agreement entered into by the Parties and Staff is to resolve any outstanding issues still remaining in this proceeding. The Parties and Staff believe that Commission approval of the 2007 Core programs, with certain modifications outlined in the Settlement Agreement, would be consistent with the public interest. The Utilities have revised portions of the initial 2007 Core Proposal in response to discovery and negotiations among the Parties and Staff. These revisions are contained in Attachment A, which the Parties and Staff agree to incorporate into the 2007 Core Proposal to be considered and approved by the Commission.

² In response to SB 228, the PUC reviewed the EAP program and adopted a new design to provide lower benefit levels to more customers, in order to serve 30,000 households. That change is expected to reduce the need to shift funds from efficiency to EAP in the future. See Order No. 24,664, September 1, 2006.

The Parties and Staff agree that responsibility for monitoring and evaluation (M&E) should reside with Commission Staff in 2007. Staff has agreed to seek advice from the utilities regarding M&E; to coordinate M&E efforts with the Core programs implementation efforts; to provide Utilities with the opportunity to comment on preliminary M&E study findings and results; to invite Utilities to attend and provide input on evaluation presentations; to participate on a case-by-case basis in regional M&E studies and studies conducted by multi-jurisdictional utilities; and to protect confidential customer information. Although Staff is gathering topics to be considered for 2007 M&E activities, the Parties and Staff agreed that, subject to Staff review and approval, each utility may conduct its own program evaluations in 2007. The Utilities will work with Staff to identify M&E reports that should be included on the Commission website. The Parties and Staff also agree that each Utility will provide its proportionate share of funds budgeted for M&E to be used to fund New Hampshire's share of ISO-NE's working group consultant costs to develop Measurement and Verification guidelines for participation of energy efficiency programs in the FCM.

The Parties and Staff agree that each utility will evaluate the costs and benefits of participating in the transition period until the FCM begins in 2010, and report the results of their evaluation by August 15, 2007. Any FCM funds received by NH Electric Utilities as a result of 2006 and/or 2007 Core program savings will be used for Core programs only and shall be distributed uniformly across all customer classes. At hearing, the Utilities provided a rough estimate of these potential funds to be on the order of \$300,000.

The Utilities reported that at least half of the Energy Star® Homes budget in 2006 was expended in building housing for low- and moderate-income families, thereby extending the long-range economic benefits of Energy Star® Homes to this segment of the customer

population.³ The Utilities cannot predict whether this trend will continue; therefore, the Parties and Staff agree that this practice will continue to the extent possible, and that this program will remain open to all customers

The Parties and Staff agree that the multi-year project approvals contemplated by the Utilities should be subject to the availability of Systems Benefits Charge (SBC) funds. The Parties and Staff agree that no funds shall be transferred out of the Home Energy Assistance Program without prior approval by the Commission. The Parties agree to encourage the continuation of coordination and collaboration between the Home Energy Assistance, Low Income Home Energy Assistance Program (LIHEAP) and the Federal Weatherization programs.

The Parties and Staff agree that the Utilities will investigate opportunities to improve programs, products and services offered through the Core Programs, including through web-based applications.

The Parties and Staff recommend approval of the Settlement Agreement and the amended 2007 Core Programs proposal filed with the Commission on December 14, 2006, and marked as Exhibits 2, 3 and 4 in the hearing held on December 20, 2006.

III. COMMISSION ANALYSIS

The Core programs are funded through the System Benefits Charge authorized by RSA 374-F:4, VIII(b);⁴ RSA 374-F:3, VI;⁵ and 374-F:3,X⁶. On November 1, 2000, the Commission

³ Settlement Agreement p. 9 fn. 6.

⁴ RSA 374-F:4, VII(b) states: During the first and second year after competition is certified to exist pursuant to RSA 38:36, the portion of the system benefits charge referred to in RSA 374-F:3, VI due to energy efficiency programs, new renewable programs, and programs for low-income customers shall not exceed 3 mills per kilowatt hour for any utility.

⁵ RSA 374-F:3, VI, Benefits for All Customers, states in pertinent part: A non-bypassable and competitively neutral systems benefits charge applied to the use of the distribution system may be used to fund public benefits related to the provision of electricity. Such benefits, as approved by regulators, may include, but not necessarily be limited to, programs for low-income customers, energy efficiency programs . . . support for research and development, and investments in commercialization strategies for new and beneficial technologies.

approved recommendations of the Energy Efficiency Work Group for the design and implementation of post-restructuring electric efficiency programs. *See Electric Utility Restructuring Energy Efficiency Programs*, 85 NH PUC 684 (2000)). The Commission initially approved the Core energy efficiency programs in *Core Energy Efficiency Programs*, 86 NH PUC 805 (2001) (endorsing the concept of statewide programs) and in *Concord Electric Co.*, 87 NH PUC 378 (2002) (authorizing implementation of specific program proposals on June 1, 2002). In these orders, the Commission made clear that it was acting to advance specific policy goals related to energy efficiency and demand-side management in the Electric Industry Restructuring Act as enumerated in RSA 374-F:3. Following these initial orders the Commission has approved similar programs for 2004, 2005 and 2006. *See Granite State Electric Co.*, 88 NH PUC 624 (2003); *Granite State Electric Co.*, 89 NH PUC 676 (2004); and *Granite State Electric*, Order No. 24,599, Docket DE 05-157 (March 17, 2006).

The applicable policy principles for the Core programs remain unchanged. Given the success of the Core programs since their advent in 2002, it is appropriate, and consistent with the public interest, to maintain the basic approach to the use of Systems Benefit Charge (SBC) energy efficiency funds established in prior Commission orders.

It is clear that New Hampshire's electric industry has evolved over the past six years. In addition, the parameters of the SBC (a three mils per kilowatt hour additional charge on the electric bill of every New Hampshire customer) have been the subject of ongoing legislative debate. *See* Chapter 298, NH Laws of 2005 and Chapter 389, NH Laws of 2006. Further, there

⁶ RSA 374-F:3, X, Energy Efficiency, states: Restructuring should be designed to reduce market barriers to investments in energy efficiency and provide incentives for appropriate demand-side management and not reduce cost-effective customer conservation. Utility sponsored energy efficiency programs should target cost-effective opportunities that may otherwise be lost due to market barriers.

have been significant changes in federal law including the Energy Policy Act of 2005 and the development of the FCM in New England. All of these changes require adjustments in the 2007 Core Programs. We find the changes to the 2007 Core Programs proposed in the Settlement to be appropriate responses to industry and regulatory changes.

Specifically, with respect to repayment of funds transferred from the 2006 Core Programs as a result of Chapter 298, Laws of 2005, we find that the adjustments to PSNH's and NHEC's 2007 Core budgets are necessitated by the circumstances. The application of those reductions uniformly across customer classes appears fair and consistent with RSA 374:F:3, VI (benefits should flow to all customers equitably) and RSA 378:10 (rates should not discriminate against any customer) as well as the requirements of Chapter 298, Laws of 2005.

We find the reduction of certain rebate levels as well as the incorporation of Federal Energy Tax Credits into the Energy Star Homes offerings appropriate 2007 Core Program changes. We approve the Settlement terms dealing with monitoring and evaluation and authorize the use of a portion of the Core monitoring and evaluation budgets to pay for the consulting costs needed to develop regional measurement and verification standards for use in the New England FCM. We believe that participation in that regional effort will benefit New Hampshire customers and is an appropriate use of SBC funds.

With regard to the potential benefits of registering Core program peak load reductions with the ISO-NE FCM Transition market, we support the Utilities' proposal to study those benefits and to report back to the Commission before August 15, 2007. We also believe that it is appropriate, as a preliminary matter, to contribute any payments received by utilities for Core program peak load reduction back to the Core programs.

In all other respects, the Settlement and the amended 2007 Core Proposal represent a good use of SBC funds. The 2007 Core Program will benefit all customers in the form of both electric load reduction and environmental pollution reduction. We therefore find the Settlement and amended 2007 Core Program to be in the public interest.

Based upon the foregoing, it is hereby

ORDERED, that the Settlement Agreement submitted at hearing in this docket on December 20, 2006 is APPROVED and the petitioners are authorized to implement the Core energy efficiency programs according to the terms of the agreement.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of December, 2006.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary