**New Hampshire Public Utilities Commission**

**DE 17-136**
**Electric and Gas Utilities**
**New Hampshire Statewide Energy Efficiency Plan**
**2019 Plan Update**

# The Way Home Statement of Legal Position

## I. Introduction

On September 14, 2018, the New Hampshire Utilities jointly filed the 2019 Update to the 2018-2020 Statewide Energy Efficiency Plan in Docket DE 17-136. Among other changes, the Utilities proposed to decrease the 2019 Home Energy Assistance (HEA) budget and incorporate a separate 10% low-income adder to account for non-energy impacts (NEIs) in the HEA Program. The Way Home respectfully submits this Statement of Legal Position with respect to these two proposals in the 2019 Plan Update. These are not the only issues that The Way Home is concerned about in the 2019 Plan Update. In his direct testimony submitted on behalf of The Way Home dated November 2, 2018 in DE 17-136, Roger D. Colton discusses these and other concerns about the design and implementation of the HEA Program for 2019 and beyond.

## II. New Hampshire Public Policy Recognizes the Importance of Providing Energy Efficiency to Low-Income Customers, Especially Given the Market Barriers and Great Need that Exist Today.[1]

The General Court of New Hampshire has declared that "it shall be the energy policy of this state . . . to maximize the use of cost effective energy efficiency." RSA § 378:37. The General Court has also recognized that the benefits of restructuring the electric utility industry should be equitably distributed and that it is important to serve low-income households in New Hampshire. *See* RSA 374-F:3, V, VI. Notably for low-income customers, "[u]tility sponsored

[1] For a summary of various sources of public policy regarding energy efficiency in New Hampshire, and the delivery of low-income energy efficiency in particular, please see Appendix A to this Statement of Legal Position.

energy efficiency programs should target cost-effective opportunities that may otherwise be lost due to market barriers." RSA 374-F:3, X; *see also* DR 96-150, Order No. 23,574 dated November 1, 2000 at 17.

The New Hampshire Public Utilities Commission (PUC) has long acknowledged the importance of low-income energy efficiency programs as well. *See, e.g.*, DG 02-106, Order No. 24,109 dated December 31, 2002, 87 NH PUC 892 at 897-99. For example, the Commission has a well-established policy that provides special protection to the low-income programs by prohibiting the transfer of low-income funds without prior Commission approval. *See, e.g.,* DG 02-106, Order No. 24,109 dated December 31, 2002, 87 NH PUC 892 at 899 ("low income program budgets are dedicated and those budgets cannot be siphoned away to other programs"). The PUC recognizes that "well-designed, statewide [low-income] programs could help to alleviate the apparent persistence of 'undesirable market conditions.'" DR 96-150, Order No. 23,574 dated November 1, 2000 at 17. In his pre-filed direct testimony, Roger D. Colton points out that the market barriers "persist at the same or increased levels today" compared to eighteen years ago when the Commission cited the conditions in support of adopting low-income programs. *See* DE 17-136, Pre-Filed Direct Testimony of Roger D. Colton (Colton Testimony) dated November 2, 2018 at Bates 14-16. The large waiting lists in the HEA Program and recent data about low-income households in New Hampshire demonstrate that the current need for low-income energy efficiency is high and the demand is great. *See* Colton Testimony dated November 2, 2018 at 12, 17-18, 21-22.

## III. The Commission Should Not Approve the Utilities' Proposed Reduction to the 2019 HEA Budget Because It Is Inconsistent with the Goals of the EERS, Prior PUC Orders, and New Hampshire Public Policy.

The New Hampshire Utilities' proposal to decrease the HEA budget in the 2019 Plan Update is contrary to the goals of the Energy Efficiency Resource Standard (EERS) and New Hampshire public policy, which direct the utilities to pursue *more* energy efficiency. When the Commission approved the creation of the EERS in New Hampshire, it approved an increase in the budget for the HEA Program because "low income customers face greater hurdles to investment in energy efficiency than other customer [sic]." DE 15-137, Order No. 25,932 dated August 2, 2016 at 64. The Commission found that the increase in the budget was "appropriate in order to comply with legislative directives and to reduce energy consumption for those customers who need it most." *Id.*

The increase to the HEA budget was part of a long-term goal, agreed to by the settling parties and approved by the Commission, to achieve "all cost-effective energy efficiency" in New Hampshire through the new EERS. *Id.* at 1, 16, 55. Recently, this long-term goal was reiterated in the PUC's Annual Report to the Legislature on the System Benefits Charge (SBC) and affirmed in the updated New Hampshire 10-Year Energy Strategy. *See NH PUC Annual Report on Results and Effectiveness of the System Benefits Charge*, October 1, 2018 at 1; NH Office of Strategic Initiatives, *New Hampshire 10-Year Energy Strategy*, April 2018 at 39.

Despite this long-term goal, the New Hampshire Utilities are proposing to reduce the total budget for all electric programs by 4.2% (approximately $1.96 million) and the total budget for all gas programs by 1.3% (approximately $132,000). DE 17-136, New Hampshire Statewide Energy Efficiency Plan 2019 Update (2019 Plan Update) dated September 14, 2018 at 15-16. This proposed reduction will negatively impact the HEA Program budget by reducing funding for the low-income electric program by approximately $153,000 and the low-income gas program by approximately $20,000. DE 17-136, 2019 Plan Update dated September 14, 2018 at 18. This reduction would come at a time when there are more low-income households in New Hampshire compared to nine years ago. *See* DE 17-136, Colton Testimony dated November 2, 2018 at Bates 22. Based on the number of low-income households served in 2017, it would take about 40 years to serve all low-income customers at or below 150% of the federal poverty level and about 80 years to serve all low-income customers at or below 200% of the federal poverty level. *See* DE 17-136, Colton Testimony dated November 2, 2018 at Bates 21-22.[2]

While it is commendable that the Utilities still project to meet their savings goals despite the proposed reduction to the HEA budget, the savings goals should be a floor, not a ceiling. The General Court has declared that New Hampshire should "maximize the use of cost effective energy efficiency" (RSA § 378:37) and avoid lost opportunities due to market barriers (RSA 374-F:3, X). *See also* DE 17-136, Colton Testimony dated November 2, 2018 at Bates 34-35. The Utilities admit that if they do not reduce the HEA budget for 2019 they could serve more low-income households and achieve more savings. *See* DE 17-136, Joint Utility Response to Conservation Law Foundation data request 2-011 dated October 23, 2018 (attached as Appendix B). Maintaining the original 2019 budget and pursuing additional savings would also be consistent with the purpose of the annual update filings, which "serve as an opportunity to adjust programs and targets and address any other issues that may arise from changes or advancements, including evaluation results, state energy code changes, and federal standard improvements." DE 15-137, Order No. 25,932 dated August 2, 2016 at 41.

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[2] Mr. Colton acknowledges in his testimony that the Utilities propose to do more jobs in 2018 and 2019 than were completed in 2017, but the analysis nonetheless illustrates the large need for low-income energy efficiency in New Hampshire

The analysis of The Way Home's expert witness demonstrates that the monthly bill impact of using the original 2019 HEA budget would be minimal. *See* DE 17-136, Colton Testimony dated November 2, 2018 at Bates 31-32. In fact, this analysis suggests that the resulting SBC rate would still be lower than the original SBC rate for 2019 that was projected and approved in Order No. 25,932. *Compare* DE 17-136, Colton Testimony dated November 2, 2018 at 29 (SBC rate of $0.00373 per kWh) *with* DE 17-136, 2019 Plan Update dated September 14, 2018 at 10-11 (original SBC rate of $0.00425 per kWh approved in DE 15-137, Order No. 25,932 dated August 2, 2016).

The Commission found the original 2019 HEA budget to be just and reasonable at a projected SBC rate of $0.00425 per kWh. *See* DE 17-136, Order No. 26,095 dated January 2, 2018 approving the 2018-2020 Statewide Energy Efficiency Plan dated September 1, 2017 at 30-34; DE 15-137, Order No. 25,932 dated August 2, 2016 approving the projections in Electric Attachment A to the Settlement Agreement at Bates 17). Based on the information that the Utilities provided in the 2019 Plan Update and that Mr. Colton provided in his testimony, the original 2019 HEA budget can now be funded at an SBC rate of $0.00373 per kWh. In other words, it will cost ratepayers less than was initially projected to maintain the original 2019 budget that was agreed to in the settlements approved by Order Nos. 26,095 and 25,932. In addition, the New Hampshire Utilities have demonstrated that more savings could be achieved and more low-income customers could be served at the original 2019 HEA budget level. As the Commission has previously recognized this additional savings would "free up some of the low-income financial assistance also collected through the SBC and LDAC, because these customers' energy consumption will decrease." DE 15-137, Order No. 25,932 dated August 2, 2016 at 56, 57.

In approving the EERS, the Commission found "that any short-term rate impacts will be outweighed by the benefits to customers, the grid, and the NH economy" in the long-term since all customers will spend less on energy supply. DE 15-137, Order No. 25,932 dated August 2, 2016 at 54, 57. This is still true today with respect to the originally agreed upon 2019 HEA budget. The differences today are that the original 2019 HEA budget can be funded at a more affordable SBC rate while serving more low-income households and achieving even more energy savings than originally projected. Therefore, the Commission should reject the Utilities' proposal in the 2019 Plan Update and instead reaffirm the original agreed upon 2019 HEA budget amount.[3]

## IV. The Commission Should Approve an Additional Ten Percent Low-Income Adder to Account for NEIs in the HEA Program Because It Is Supported by a Preponderance of the Evidence and New Hampshire Public Policy.

A separate low-income adder would enable New Hampshire to be more comprehensive in its cost effectiveness analysis by capturing non-energy impacts (NEIs) in the HEA Program that are unique and often of greater value than those in other sectors. *Non-Energy Impacts Approaches and Values: An Examination of the Northeast, Mid-Atlantic, and Beyond,* Northeast Energy Efficiency Partnerships, Inc., June 2017 at 1, 44. For a more detailed analysis of the public policies and evidence in support of a separate low-income adder to account for NEIs in the HEA Program, *see generally* the Pre-Filed Direct Testimony of Roger D. Colton dated November 1, 2017 in DE 17-136 and the Pre-Filed Direct Testimony of Roger D. Colton dated November 2, 2018 in DE 17-136 at Bates 45-48.

[3] Should the Commission decide to approve the Utilities' proposed budget reductions for the other energy efficiency programs, the Commission should still order that the Utilities maintain the original HEA budget level of approximately $9.6 million. For the reasons stated above, this is consistent with prior PUC orders and New Hampshire public policy. Moreover, the Settlement Agreement in DE 15-137 filed on April 27, 2016 and approved by Order No. 25,932 stated that the HEA budget may not be decreased from the 17% budget level during the first triennium of the EERS "but may be increased." DE 15-137, Settlement Agreement filed April 27, 2016 at 9-10.

New Hampshire public policy recognizes that the benefits of energy efficiency extend beyond bill savings and should be pursued to benefit all New Hampshire ratepayers. The General Court has declared that "it shall be the energy policy of this state . . . to maximize the use of cost effective energy efficiency . . . and to protect the safety and health of the citizens, the physical environment of the state, and the future supplies of resources." RSA § 378:37. When reviewing the integrated least-cost resource plans, "the commission shall consider potential environmental, economic, and health-related impacts of each proposed option." RSA § 378:39. If "the options have equivalent financial costs, equivalent reliability, and equivalent environmental, economic, and health-related impacts" then the commission shall prioritize energy efficiency and other demand-side management resources over other energy sources. *Id.*; *see also* DE 17-136, Order No. 26,095 dated January 2, 2018 at 17. A more accurate accounting of NEIs in the HEA Program through the use of a separate low-income adder would help New Hampshire meet these legislative mandates.

The General Court has also directed the PUC to "design low income programs in a manner that targets assistance and has high operating efficiency, so as to maximize the benefits that go to the intended beneficiaries of the low income program." RSA § 369-B:1, XIII. In addition, the PUC has stated that it is appropriate to recover the costs associated with the low-income program from all customers since the "benefits from the low income program can be ascribed to all customer classes." DG 02-106, Order No. 24,109 dated December 31, 2002, 87 NH PUC 892 at 897. A separate low-income adder is currently needed to more accurately capture the benefits in the HEA Program.

All of the parties who have filed testimony on the topic of NEIs agree that New Hampshire should more accurately account for NEIs in the HEA Program when determining cost effectiveness. *See* DE 17-136, 2019 Plan Update dated September 14, 2018 at 38-41; DE 17-136, Pre-Filed Direct Testimony of Michael R. Goldman dated September 1, 2017; DE 17-136, Colton Testimony dated November 1, 2017; DE 17-136, Colton Testimony dated November 2, 2018; DE 17-136, Pre-Filed Direct Testimony of Jeffrey Loiter dated November 2, 2018 at 9-10, 17-19; DE 17-136, Pre-Filed Direct Testimony of Elizabeth R. Nixon (Nixon Testimony) dated November 2, 2018 at 3, 6-9. However, the PUC Staff disagree that a separate low-income adder should be incorporated at the start of 2019, prior to the completion of the NEI studies that are currently underway in New Hampshire. DE 17-136, Nixon Testimony dated November 2, 2018 at 3, 6-9.

The preponderance of the evidence presented in this docket demonstrates that the Commission should approve the Utilities' proposal to incorporate a separate 10% low-income adder in 2019. *See* DE 17-136, 2019 Plan Update dated September 14, 2018 at 38-41; DE 17-136, Pre-Filed Direct Testimony of Michael R. Goldman dated September 1, 2017; DE 17-136, Colton Testimony dated November 1, 2017; DE 17-136, Colton Testimony dated November 2, 2018; DE 17-136, Pre-Filed Direct Testimony of Jeffrey Loiter dated November 2, 2018 at 9-10, 17-19. While all of the parties support further study of NEIs in New Hampshire, the present lack of New Hampshire specific data does not negate the weight of the evidence presented in the large body of research about NEIs in other jurisdictions. In fact, the evidence that has been presented demonstrates that the value of NEIs in New Hampshire is likely to far exceed the Utilities' proposal in the 2019 Plan Update. The extensive studies from other jurisdictions, especially those similar to New Hampshire, support acting now to more accurately account for NEIs in the HEA Program through the inclusion of a separate 10% low-income adder.

While it may be appropriate to further refine the benefit-cost test in future annual updates and triennium plans when new information is available, the Utilities' proposal represents a conservative estimate of NEI values based on the most recent research that has been conducted to date. Moreover, even after the initial NEI studies are completed in New Hampshire, it may be appropriate to continue using a separate low-income adder of some value to account for NEIs that will not be studied due to limited resources, such as funding and time. Currently, the consultant is only planning to study a limited number of NEIs that exist in New Hampshire's HEA Program. *See* Opinion Dynamics *Memorandum – HEA Program Non-Energy Impact Analysis* dated November 2, 2018 (attached in Appendix B). These issues underscore the need for a separate low-income adder and the importance of continuing the work that was begun in the Benefit-Cost Working Group pursuant to the Settlement Agreement approved by Order No. 26,095.

For the foregoing reasons, the Commission should approve the Utilities' proposal to incorporate a separate 10% low-income adder in 2019 and instruct the parties to continue discussions about ways to improve New Hampshire's benefit-cost test as new information becomes available.

Submitted on behalf of
The Way Home
By Its Attorney
New Hampshire Legal Assistance
117 North State Street
Concord, NH 03301

By:
Raymond Burke
rburke@nhla.org
Stephen Tower
stower@nhla.org

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