

DR 96-150

Electric Utility Restructuring

**Order Approving Energy Assistance Program and Establishing the
Community Action Agencies as Program Administrator**

O R D E R N O. 23,573

November 1, 2000

I. PROCEDURAL HISTORY

On February 28, 1997, the New Hampshire Public Utilities Commission (Commission) issued Order No. 22,514 adopting a statewide electric utility restructuring plan. In Section IV, A.(3) of that plan, the Commission authorized the establishment of a low income assistance program to be funded through a system benefits charge. The Commission found that the \$13.2 million level of funding proposed by the Community Action Agencies, Save Our Homes, and the Office of Consumer Advocate, would provide benefits to roughly half of the approximately 50,000 low income households across the state and was consistent with both RSA 374-F:1,I and 374-F:3,V.

The Commission established three goals for the program: first, to bring the electric bills into the range of affordability; second, to encourage conservation and the use of energy efficiency mechanisms to make electric bills manageable; and third, to make the most effective use of limited funding. The Commission also established a working group to advise it on the development and implementation of a low income assistance program and tasked the

working group with developing a request for proposals to select an organization experienced in the provision of low income energy assistance in New Hampshire to administer the program.

In April 1997, the Low Income Working Group (Working Group), which included representatives of NH Legal Assistance, the Governor's Office of Energy and Community Services, the Electric Restructuring Collaborative, Connecticut Valley Electric, Granite State Electric, NH Electric Cooperative, Public Service Company of NH, Unitil, the Office of Consumer Advocate, and the Commission Staff, submitted a draft request for proposals to the Commission for the selection of a program administrator. The Community Action Agencies (CAA) were the sole respondents to the request for proposals issued by the Commission.

During the next year, the Working Group and CAA worked to develop an electric assistance program for low income customers. On February 24, 1998, the Working Group filed a status report with the Commission which outlined, in general terms, the proposed assistance program. The Working Group submitted its final recommendations for a low income electric assistance program to the Commission on August 28, 1998. The Commission held a hearing on March 9, 1999 to consider the Working Group's recommendations.

II. SUMMARY OF THE LOW INCOME WORKING GROUP'S RECOMMENDATIONS

The Working Group recommended that the Commission implement a fixed credit payment plan designed to provide affordable bills to participants, thereby motivating them to change their payment habits and make regular and timely payments on their electric bills. Because there was concern that many of the customers who would be eligible for the program may have past due balances owed to the distribution company, it also recommended the Commission include in any program that was implemented a program component to address outstanding balances. During the March 9, 1999 hearing, the Working Group stated it believed requiring program participants to continue to make payments on an unaffordable past due balance would defeat the purpose of the program, which is to make bills affordable thereby incenting customers to change their payment habits. To balance the unknown impact an arrearage forgiveness program would have on the distribution companies' costs, the Working Group recommended a pre-program arrearage forgiveness component be established for the electric assistance program (EAP) on a pilot basis.

The Working Group identified six entities that would have key roles in the electric assistance program: the Commission, the six Community Action Agencies, the six jurisdictional electric distribution companies, the Governor's Office of Energy and Community Services, EAP participants and an EAP Advisory Board. The roles of each of the program partners are described below:

Public Utilities Commission - The Commission has responsibility for the design and implementation of the EAP. The Commission will maintain ongoing oversight of the program and modify the program as necessary. The Commission will also be available to resolve disputes between participants, the utilities and the CAAs.

Community Action Agencies - New Hampshire's six Community Action Agencies (CAAs) will be responsible for the daily operation of the EAP and insure compliance with program parameters within their regions. One CAA will serve as the lead agency for all six CAAs. The Lead CAA will serve as program coordinator, responsible for the internal management and daily administrative functions including monitoring all six CAA's program performance. The daily operational activities of the EAP will include marketing, outreach, intake, education, counseling, certification, recertification, credit determination, grievances and removal from the program. Individual CAAs will also be responsible for reporting necessary data to the Lead CAA and utilities.

Jurisdictional Electric Distribution Companies - The jurisdictional electric distribution companies (utilities) will be responsible for collecting the system benefits charge from customers, applying EAP credits to participating customer

accounts, and reconciling the funds collected with the credits applied. The utilities will also participate in other program components such as marketing of the EAP. The utilities will provide applicants' energy usage and billing history to the CAAs to utilize in the certification and credit determination processes. The utilities will also notify the CAAs when EAP participants fall behind in their payments. Finally, the utilities will provide the necessary data and reports required to monitor the utilities' role in the EAP.

The Governor's Office of Energy and Community Services - The Governor's Office of Energy and Community Services (ECS) will be responsible for the fiscal management of the EAP funds. Since the system benefits charge is statewide rather than distribution company specific, it is unlikely that any one utility will collect the exact amount that is to be credited to its own customers. ECS will be responsible for the true-up among utilities. ECS will also provide ongoing program analysis and make recommendations to the EAP Advisory Board and the Commission. ECS will provide program reports to the CAAs, utilities, and the EAP Advisory Board and alert them to any patterns or trends that could have a negative effect on the ability of the program to meet its various goals. ECS will also assist in resolving operational issues or complaints for

the utilities and CAAs upon request. Finally, ECS's monitoring responsibilities will include periodic assessments of the effectiveness of the EAP statewide.

EAP Participants - EAP applicants will be responsible for providing the information and documentation required for the certification and recertification processes. Once accepted into the program, EAP participants will be responsible for paying their bill in full and on time. Participants who have a pre-existing arrearage will be required to make payment on their past due bills. EAP participants will also be expected to follow the program guidelines outlined in the signed agreement between the individual and CAA.

EAP Advisory Board - An Advisory Board will serve as a conduit between the parties involved in the program and the Commission. The Advisory Board's responsibilities will include long-term oversight of the EAP, the drafting of policy recommendations and the provision of clarification and guidance to the parties responsible for administering the program.

Eligibility for the EAP will be based on income and electric usage. Households with an income less than or equal to 150% of the federal poverty level will be eligible to apply for the program. EAP income eligibility guidelines will be re-evaluated annually, and program eligibility will be for a twelve month period.

Benefits to EAP recipients will be based on an annualized fixed credit. The goal of the credit is to reduce a participant's electric bill to 4% of income for general use customers and 6% of income for electric heat customers. While the total amount of each participant's credit is determined on an annual basis, the monthly credit will be higher in the winter, i.e., November through March, when bills are less affordable due to increased heating and lighting costs. Accordingly, the monthly credit will be lower in the non-winter months. The amount of the credit will be determined by an EAP household's income level, the household's estimated or historical annual electric usage and whether or not the household's use of service is heating or non-heating.

The EAP includes an important conservation element in that the participant's monthly payment will decrease for the duration of the benefit year if the participant's electric usage decreases. Furthermore, the education component includes information on low-cost/no-cost energy conservation measures. While the EAP encourages energy conservation, it does not address the barriers that prevent the low income community from accessing more capital-intensive energy efficiency measures that would result in long-term reductions in consumption and bills. However, the recommendations put forth by the Working Group suggested that it would be premature to commit EAP program funds to energy efficiency

measures absent solid program data and experience. The Working Group asked the Commission to defer consideration on the use of EAP program funds for targeted energy efficiency measures until program history and data can be reviewed and the true costs of the EAP can be identified.

III. LEGISLATIVE CHANGES

RSA 369-B:1, XIII, RSA 369-B:3, IV(b)(6), and RSA 374-F:4, VIII(g), which were enacted by the Legislature during its 2000 session and became effective on June 12, 2000, refer to the electric assistance program. RSA 369-B:1, XIII addresses the design of the low income program. RSA 369-B:3, IV(b)(6) fixes the system benefits charge at \$0.0020 per kWh for PSNH for the 33-month period starting on competition day and directs the Commission to divide the system benefits charge between low-income assistance and energy efficiency¹ while RSA 374-F:4, VIII(g) limits the system benefits charge for all utilities to the level set for PSNH during the 33 month period following the start of competition for PSNH.

On July 19, 2000, the Commission, through its General

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In the relevant provisions of Chapter 249, codified as RSA 369-B:3, IV, the Legislature did not establish any requirements outright. Rather, it set out certain determinations that the Commission was required to make, and conditions the Commission was required to impose on PSNH, in any finance order approving the securitization of PSNH stranded costs. The Commission did so in Order No. 23,550 (September 8, 2000).

Counsel, issued a letter soliciting comments on the division of the system benefits charge.² In their comments regarding the division of the system benefits charge, Granite State Electric Company (GSEC) and Representative Jeb Bradley raised issues about the design of the electric assistance program recommended by the Working Group. While GSEC offered no recommendation to the Commission on what would be an appropriate division of the system benefits charge, it did suggest that recent statutory changes provide the Commission with an opportunity to review the electric assistance program recommended by the Working Group. GSEC also recommended that the Commission ask the Working Group to consider modification of the interim electric assistance program as the final form for a statewide electric assistance program, citing advances in technology, changes in circumstances and the accumulation of additional experience as reasons for changes and improvements in the program.

Representative Bradley's comments did contain a recommended appropriate division for the system benefits charge. In addition, Representative Bradley expressed concerns that the proposed program would result in higher administrative costs than the interim programs adopted by Granite State Electric and NH Electric Cooperative. He urged the Commission to analyze whether

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The division of the system benefits charge is addressed in a concurrent order being issued today.

implementation of an individualized income assistance program is worth the additional administrative cost involved in providing one. In his comments, Rep. Bradley estimated that personnel costs alone could run just under \$1 million and overall administrative costs could total \$1.75 million representing over 13 percent of the overall budget, excluding utility costs. Rep. Bradley also indicated concern over the start-up costs for the program recommended by the Working Group, particularly the large planned expenditure on computers and printers. Representative Bradley also suggested the Commission consider issuing a new request for proposals in order to determine the appropriate design for the low income program.

IV. COMMISSION ANALYSIS

While the level of New Hampshire's electric rates has been a difficult burden for all customers, it is particularly difficult for those with lower incomes. In an effort to bring some assistance to customers prior to the implementation of a statewide electric assistance program, we have approved interim assistance programs, designed as flat percentage discount programs for GSEC and the New Hampshire Electric Cooperative (NHEC). We are not convinced, however, that the flat percentage discount program is the best model for achieving the goal of assisting low income customers to manage and afford essential electric service, as required by RSA 374-F:3,V(a).

RSA 369-B:1, XIII states: "The commission should 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." While we have not required any changes to the programs or the outreach efforts because they were interim programs that will eventually be replaced by a statewide program that would target assistance and make the most effective use of limited funds, we find that the design of the interim programs, which GSEC suggests we adopt as the design of the statewide program, does not meet the intent of RSA 369-B:1, XIII. The interim assistance programs do not target assistance. Customers with incomes of \$12,000 per year receive the same bill reduction as customers with incomes of \$24,000 per year. While administrative costs are relatively low, one measure of operating efficiency, those costs cannot be compared directly to the costs of administering a targeted program that maximizes benefits to participants. The design of those interim programs would be different if they were to be the final approved programs. Additionally, as is evidenced by the low participation rates in both the GSEC and NHEC programs, more customer education, marketing and outreach is needed, all of which have a cost.

We share the concern raised by Representative Bradley regarding administrative cost. However, we believe that targeting

assistance and maximizing the benefits to participants both suffer when administrative costs are the sole driver behind program design. As we mentioned above, the interim programs do not target assistance to those who need it the most. Because of the lack of targeting, it is possible customers who would not be eligible for assistance under the program recommended to us by the Working Group would receive benefits under a program modeled on the interim programs.

In contrast to those interim programs, we find that the statewide program, while it has higher administrative costs, makes the most effective use of limited dollars by targeting the most amount of assistance to those consumers with the least ability to pay. This approach maximizes the benefits to the intended participants. We believe this is the most equitable method of distributing program benefits. It also ensures that only those who need the benefits to make their bill affordable receive them.

We do not approve the EAP simply for the sake of distributing benefits to low-income customers. The distribution of benefits ought to be a means of accomplishing a goal. The legislative directive is to offer "programs and mechanisms that enable residential customers with low incomes to manage and afford essential electricity requirements." RSA 374-F:3,V(a). Also, the structure the Working Group has developed should be effective in creating an improvement in the payment habits of program

participants. As a result of the receipt of regular and on-time payments from what have heretofore been payment-troubled customers, long term benefits, in the form of reduced working capital costs to the utilities and their ratepayers, can be provided to the utility and its remaining customers.

During the course of our deliberations, we considered many of the same questions raised by those parties who responded to our invitation to comment on the system benefits charge division. Nothing in the comments we received have persuaded us to deviate from our oral deliberations regarding program design. We have also reviewed the transcripts of the March 9, 1999 hearing that we held on the Working Group's proposal and note that none of the parties who submitted comments on August 18, 2000 regarding the system benefits charge division spoke against the design of the proposed program then or raised any of these concerns or questions. In fact, a representative of GSEC sat on the panel which testified at that hearing in support of the proposed program we consider today. We continue to believe the program that the Working Group has developed and recommended is more efficient in distributing dollars from a program perspective.

We find that setting the level of payment by the participant at a level roughly equivalent to the payment level of non-low income customers meets the test of affordability. Although

the thresholds of 4% of income for non heating customers and 6% of income for heating customers are slightly higher than the percentages of income spent by non-low income customers on electric bills (as indicated to us during December 1996 hearings in this docket), we find that using those percentages will bring the burden of payment for low income customers into the same range as that of non-low income customers. Targeting the benefits to participants in the way we have just described will make the most productive use of limited program dollars.

In its recommendation to us, the Working Group proposed an arrearage forgiveness program for EAP customers with pre-existing arrearage. While there is no readily available information about the number of low income customers with arrearage or the dollar amounts of those arrearage, it is reasonable to expect those customers who will be eligible for the EAP are more payment-troubled than other utility customers and may be more likely to have past due balances owed to the utility. It would be contradictory to the program goal of making bills affordable if EAP-eligible customers could not take service under the EAP because they were unable to meet the threshold arrearage payment requirements of existing Commission rules relative to credit and collection. In addition, it may contribute to a higher drop out rate for program participants. With that in mind, we have reviewed the proposal made by the Working Group for an arrearage

forgiveness plan. It would be unfair to other ratepayers, who would ultimately pay for any write-offs in the form of higher rates, if a program participant was absolved of all responsibility for an outstanding balance. We think it is appropriate to require EAP participants to make payments, albeit small, towards the outstanding balance, and we find that the match by the program should serve as a good incentive for program participants to make their payment in full and on time each month. In this way, the proposal strikes a good balance between the needs of the utilities, other ratepayers and EAP participants.

In its recommendation, the Working Group asked us to do several things. The group asked us to approve the policies and recommendations outlined in their report to us. We will do that through the issuance of this order. The group also asked us: to advise them of any policies that may require revision during implementation of the EAP; to approve the Community Action Agencies as administrator of the program; to authorize the Governor's Office of Energy and Community Services to serve as the program monitor, evaluator, and fiscal agent; to authorize the establishment of an EAP Advisory Board and direct the Working Group to provide recommendations as to the composition of the Board; to evaluate the NH Code of Administrative Rules, Puc 1200, and revise it, as necessary, to include the EAP; and to authorize and commit the

expenditure of funds prior to the collection of the system benefits charge for the purpose of developing the computer system functional specifications and building and testing the communication system, with the condition that no funds be disbursed without the specific authorization from the Commission. We will address each item below.

With regard to the administration of the EAP, we have reviewed the Community Action Agency bid and will adopt the Working Group's recommendation to authorize CAA to be the program administrator.

The issue of start-up costs incurred by CAA, as the administrator, was raised during our hearing. CAA has provided us with an estimate of \$347,000 for computerization start up costs. We will authorize CAA to expend up to that total amount, noting that CAA initially requested \$65,000 for the purpose of developing software and for the cost of a project director. During our oral deliberations, we requested CAA submit a budget schedule for the remaining cost of approximately \$272,000 and determined that those projected costs would be paid for under the special assessment statute, RSA 365:37,II. CAA has submitted the requested budget for the remaining \$272,000 in start-up costs. We urge CAA to take advantage of competitive pricing to obtain the best price that it can for any computer-related purchases. We would also remind CAA that, to the extent any of these hardware or software purchases will be

used for other CAA run programs, the cost ought to be allocated between EAP and any other CAA-run program. We will rely on auditing and evaluation by our Staff to ensure the expenditures by the CAA are appropriately allocated between the development of this program and other programs that CAA already oversees.

The Governor's Office of Energy and Community Services performs program evaluation and acts as fiscal agent for the federal low income home energy assistance program (LIHEAP). Rather than create those systems within the Commission, it would be more efficient to enter into a memorandum of understanding with ECS to utilize the existing systems and oversight there to perform the program evaluation for EAP and for ECS to act as fiscal agent. We believe it is appropriate for Commission Staff to participate in the evaluation and auditing of the program, however, and direct Staff to work with ECS on this matter. Program evaluations are a critical component in our monitoring and review of any ratepayer-funded program, including this one. We direct ECS to submit to us a detailed, formal plan for program evaluation including frequency of evaluation and a description of the resources which they will devote to evaluation. Process evaluations shall be conducted annually, or as otherwise specified by the Commission, and impact evaluations shall be conducted as determined by the Commission. However, the first impact evaluation should not occur until such time as

sufficient data has been collected to show program results. Funding of any memorandum of understanding we enter into with ECS will come from the system benefits charge.

As part of the program evaluation, we expect ongoing evaluations to provide us with additional information on the issue of whether the reduction in bills to low income customers results in increased electric usage. Most of the studies that were cited by the Working Group suggest this has not been the case with burden-based bill assistance programs like EAP. Accordingly, we do not believe that changes to program design are necessary to prevent increase in usage by EAP customers, especially because the program is designed such that low income customers pay more if they use more electricity. However, program data relative to this issue should be collected and monitored to evaluate whether the program results in increased usage. The Advisory Board can assist in such monitoring and evaluation, and therefore, we direct the Working Group to further develop the role of an EAP Advisory Board and to submit to us a recommendation for the composition of such a board.

Because EAP start-up costs incurred by CAA and ECS are prerequisites for the program, we believe they should be funded by the system benefits charge. While we have already addressed funding for a memorandum of understanding between the Commission and ECS for EAP related service performed, we have not yet addressed how CAA

ongoing administrative costs will be funded. We find it appropriate to fund administrative costs for this program through the program fund as we do for other ratepayer funded programs. There is a related issue as to whether utility start-up and ongoing O&M costs should come out of the program fund or whether they should be considered to be a restructuring charge and otherwise funded. Because these are costs that are specific to this program, we believe they ought to be funded through this program. We will direct the utilities, ECS, and CAA to submit to us on a quarterly basis, at least for the first year of the program, reports on their administrative expenses. In subsequent years, we may require reporting on a less frequent basis. Recovery of all such costs from the program fund will be subject to review and approval by the Commission.

There was some question during the hearing as to whether integration between the various computer systems of the electric utilities, CAA and ECS could be done internally by the utilities. It was recommended by at least a few of the utilities that a consultant be hired for that purpose. We are concerned that the computer systems of the various program partners be able to communicate with one another. A seamless integration between the CAA and the utilities seems critical to the success of the program and to minimizing confusion for program participants. In order to ensure

that all the program partners can communicate with one another, we will authorize the Working Group to draft a Request for Proposal (RFP) to hire a consultant to finalize the computer system functional specifications and be responsible for building and testing the communications system. While we believe that the costs of hiring this consultant are start up cost of the EAP, there is no current program fund from which to pay the consultant. Accordingly, the cost of the consultant shall be paid for under the special assessment statute, RSA 365:37, II. We will give consideration to filings from utilities, however, which request recovery of those expenses from the program fund.

There was also a question as to whether energy efficiency/conservation programs for low income customers ought to be part of the energy efficiency/conservation portion of the system benefits charge or whether it should be a part of the low income portion of the system benefits charge. The EAP and energy efficiency/conservation programs for low income customers are separate, distinguishable programs. It is more appropriate for the energy efficiency/conservation related charges, to the extent that there are any, to be considered on a going-forward basis as part of any system benefits charge related to energy efficiency/conservation programs rather than as a part of the low income portion.

With regard to a rulemaking, we will ask our Staff to

review our Chapter 300 and 1200 rules and identify what rule changes would be needed to include the EAP. However, given the restrictions imposed upon the Commission under the federal court injunction, we will not proceed with any formal rulemaking process until those issues have been resolved.

Based upon the foregoing, it is hereby

ORDERED, that with the modifications and clarifications noted above, the recommendations submitted to us by the Low Income Working Group are approved; and it is

FURTHER ORDERED, that the Low Income Working Group work with Staff in developing program evaluations and submit said program evaluations to the Commission for review and approval; and it is

FURTHER ORDERED, that the Low Income Working Group provide the Commission with a recommendation regarding the composition of the Advisory Board as well as a proposed implementation schedule for the EAP by November 22, 2000.

By order of the Public Utilities Commission of New Hampshire this first day of November, 2000.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Claire D. DiCicco
Assistant Secretary