

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 07-064

Investigation into Energy Efficiency Rate Mechanisms

Order on Scope and Schedule

ORDER NO. 24,774

July 12, 2007

I. PROCEDURAL BACKGROUND

On May 14, 2007, the Commission issued an order of notice opening Docket No. DE 07-064 to investigate the merits of instituting, for electric utilities, appropriate rate mechanisms that would have the effect of removing obstacles to and encouraging investment in energy efficiency. The order of notice scheduled a prehearing conference for June 18, 2007, which was held as scheduled.

On May 23, 2007, the Office of Consumer Advocate (OCA) entered its appearance on behalf of residential ratepayers pursuant to RSA 363:28. The following parties filed motions to intervene: KeySpan Energy Delivery New England, Campaign for Ratepayers' Rights, the Office of Energy and Planning (OEP), Wal-Mart Stores, East L.P., The Way Home; Conservation Law Foundation, Southern New Hampshire University, Jordan Institute, Department of Environmental Services, Business and Industry Association, Public Service Company of New Hampshire, Granite State Electric Company, Unitil Energy Systems, Inc. (UES), Northern Utilities, Inc., Constellation Energy Commodities Group, Inc., and Constellation NewEnergy, Inc.

On June 21, 2007, Staff filed a letter with the Commission that (1) recommended the scope of the proceeding be expanded to include natural gas companies, (2) proposed that any

party with comments on the scope of the proceeding file its recommendation with the Commission by June 29, 2007, and (3) reported that the parties and Staff agreed that a “baseline presentation by utilities” for all parties be held on July 30, 2007 at 9:00 a.m.

On June 29, 2007, UES filed a motion seeking clarification of the scope of the investigation. The Commission received comments on the issue from the Conservation law Foundation, the Campaign for Ratepayers Rights, Northern Utilities, OCA, and OEP.

II. POSITIONS OF THE PARTIES REGARDING SCOPE OF THE PROCEEDING

A. Unitil Energy Systems, Inc.

In its motion, UES recommended that the Commission give a broad interpretation to the scope of the docket. UES stated that the term “energy efficiency” should include “displacement” technologies and practices, such as distributed generation, demand response and energy storage. Using this more expansive definition, UES asserted that the investigation in this docket should be expanded to examine the set of incentives and disincentives in the current regulatory framework that are in direct conflict with distribution utilities promoting energy efficiency technologies and practices.

According to the company, the incentives to avoid decreases in sales may deter actions and investments that could be effective in reducing electricity demand under high load conditions and moderate some of the impact of high and volatile electricity prices. UES pointed out that reductions in electricity demand benefit all end-users, and contended that the expansion of the docket to include all energy efficiency and “displacement” technologies and practices will result in the development of an appropriate rate mechanism that will help attain larger policy objectives.

UES attested that it circulated a draft of its Motion to the parties and Staff and that it received a number of favorable comments and suggestions, some of which were incorporated into the Motion. However, UES stated that it was unable to represent that there was a consensus in support of its motion.

B. Campaign for Ratepayers Rights

CRR commented that it would be appropriate to examine the effects of a decoupled system, or any alternative rate mechanism, on utility consumers. Therefore, CRR recommended that the scope of the proceeding be broad enough to allow parties to study, testify or comment on effects and concerns of revenue decoupling but not directly focused on energy efficiency efforts.

C. Northern Utilities, Inc.

Northern stated that the order of notice appropriately addressed the scope of the proceeding. Northern further provided information regarding the presentation that it would make at the July 30, 2007 meeting proposed in the procedural schedule. Among the topics Northern proposed to discuss are its energy efficiency programs, market-driven conservation, and alternative approaches to address revenue impact.

D. Conservation Law Foundation

According to CLF, this docket provides an important opportunity to reshape the current regulatory framework by eliminating existing structural utility disincentives to promote energy efficiency and to encourage investment in energy efficiency and other strategies to reduce energy consumption, including conservation. CLF stated that it supports energy conservation and energy efficiency because the resulting reduced energy use also reduces adverse environmental impacts of energy production, particularly those related to air quality and greenhouse gas

emissions that contribute to global warming. Therefore, CLF requested the Commission to consider as part of this investigation rate-making mechanisms that eliminate disincentives for implementing, and affirmatively promote, all strategies designed to reduce electricity consumption, without limitation to the energy efficiency programs that already exist. CLF also indicated its support for consideration of mechanisms that eliminate disincentives for, and promote, distributed generation that displaces fossil-fuel energy generation with clean, renewable technologies.

E. Office of Consumer Advocate and Office of Energy and Planning

In joint comments, the OCA and OEP agreed that the exploration of whether it is necessary to address disincentives or remove obstacles for utilities to promote energy efficiency could result in mechanisms that address similar issues related to promoting efficient, clean, renewable distributed generation for use by customers. However, they expressed concern that broadening the scope of the docket beyond a focus on energy efficiency could result in an unwieldy process that would not produce timely results. Therefore, the OCA and OEP recommend that the docket be limited in scope as stated in the order of notice. OCA and OEP suggested that the parties consider the potential application of mechanisms to promote energy efficiency on distributed generation, which the Commission could consider in a future phase of this docket.

The OCA and OEP expressed agreement with CRR that the parties should consider alternative mechanisms to decoupling, and with the CLF that if the parties consider ways to remove barriers to distributed generation, the focus should be on efficient, clean and renewable

distributed generation consistent with the state's environmental goals. The OCA and OEP stated that the Department of Environmental Services concurs with their comments.

III. COMMISSION ANALYSIS

We note that there were no objections to any of the motions for intervention. Recognizing, pursuant to RSA 541-A:32, that the various parties have demonstrated "rights, duties, privileges, immunities, or other substantial interests may be affected by the proceeding," we grant all pending motions to intervene. In addition, we agree with Staff and the parties' recommendation to include the natural gas companies in this docket.

We next consider the scope of the docket. As stated in the order of notice, we intend to investigate ratemaking alternatives, such as decoupling, which would remove obstacles to and encourage energy efficiency. The effects of the various regulatory mechanisms on utility actions and incentives are central to our inquiry. Technologies or practices other than energy efficiency and demand response are also implicated by this investigation but the focus of this investigation is more on ratemaking mechanisms and less on particular technologies. Therefore, we agree with UES that it is appropriate to include, in a general way, distributed generation and other "displacement" technologies and practices in our review of existing and alternative rate-setting mechanisms. We believe this approach is consistent with the comments of the CLF, OCA and OEP.

Staff's letter proposes a "baseline presentation by utilities" on July 30, 2007. We will schedule the July 30 gathering and direct Staff and the parties to propose a more complete procedural schedule after the conclusion of that meeting. Participants are advised that the

Commissioners may attend this and other future informal briefings and discussions conducted under this investigation.

Based upon the foregoing, it is hereby

ORDERED, that Unitil Energy Systems, Inc.'s Motion for Clarification is GRANTED subject to the parameters discussed above; and it is

FURTHER ORDERED, that the natural gas utilities shall be included in the investigation in this docket; and it is

FURTHER ORDERED, that all pending motions to intervene in this docket are hereby GRANTED; and it is

FURTHER ORDERED, that Staff and the parties conduct the baseline presentation on July 30, 2007 at 9:00 a.m.

By order of the Public Utilities Commission of New Hampshire this twelfth day of July, 2007.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary